Select private orations of Demosthenes: Pro Phormione, ...

Demosthenes,
Frederick Apthorp Paley, Sir John ...

SELECT PRIVATE ORATIONS

OF

DEMOSTHENES.

PART II.

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SELECT PRIVATE ORATIONS

OF

DEMOSTHENES

PART II

CONTAINING

PRO PHORMIONE, CONTRA STEPHANUM I. II.;
CONTRA NICOSTRATUM, CONONEM, CALLICLEM;

WITH

INTRODUCTION AND ENGLISH COMMENTARY

BY

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IN THE UNIVERSITY OF CAMBRIDGE,
HON. LITT.D. DUBLIN,

WITH SUPPLEMENTARY NOTES BY

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1896

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FROM THE

PREFACE TO THE FIRST EDITION.

My earliest interest in the Private Orations may be said to date from the time when it was my privilege as an undergraduate to attend, in the year 1865, a course of lectures by my friend Mr Moss, then Fellow and Lecturer of St John's College, and now Head-Master of Shrewsbury School. His selections included two of the six speeches edited in the present volume, the *Nicostratus* and the *Conon;* but, as the notes taken down from his lectures were too scanty to form even the basis of any attempt at constructing a complete edition, my commentary on those speeches has been mainly the result of independent reading and research, though I gladly acknowledge the help that is due to his soundness of judgment on several points on which I have consulted him while revising my notes on the *Conon.* In the case of the *Nicostratus,* when my own commentary was nearly ready for the press, I had the further advantage of attending in the spring of 1874 some of Dr Kennedy's professorial lectures on the Private Orations. From the excellent translation of his brother Mr Charles Rann Kennedy I have here and there quoted a few extracts; and if I have now and then drawn attention to an apparently erroneous interpretation, I have done so with the

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consciousness that in each case it is only a trifling blemish in what is nearly perfect of its kind. Similarly, several questionable explanations, retained even in the sixth edition of Liddell and Scott's *Lexicon*, have been duly pointed out in the course of my commentary, as it is only thus that a labourer in a limited field can offer any acknowledgement of his large indebtedness to their labours[1]. The lexicography of Demosthenes cannot indeed be said to be at present in a completely satisfactory condition, as general lexicons have still to rely in a great measure on Reiske's *Index Graecitatis*, which, with the portion of his *opus magnum* including his notes on the speeches in this volume, was posthumously published exactly a century ago[2].

The volume opens with a speech on behalf of Phormion, in bar of a claim on the part of Apollodorus for the recovery of capital alleged to have been transferred to Phormion by Pasion, the father of Apollodorus. This is followed by two on behalf of Phormion's opponent Apollodorus, charging with false witness one of the deponents called on Phormion's side in the previous trial. These three speeches, though not actually delivered in the same lawsuit, virtually represent the arguments of the two opposite sides, and a comparison of their conflicting statements has an interest similar in kind, though different in degree, to that derived from reading the longer and more important orations of Demosthenes, *On the Embassy* and *On the Crown*, in contrast with those of his great rival

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[1] Some of these have since been corrected in the seventh edition.

[2] Since the above was written the *Index Demosthenicus* of S. Preuss has been published by Teubner, 1895.

Aeschines. The orations of Antiphon, the earliest of the Attic Orators, include indeed four sets of ingenious speeches written for the prosecution and the defence in cases of homicide, but his cases are merely imaginary, and the orations are intended as rhetorical exercises alone. The first three selections in this volume supply us with the only instance in all the remains of Attic oratory, where the legal issues raised on both sides in a suit of purely private interest, lie before us as they were actually presented to an Athenian tribunal. Whether Demosthenes actually wrote for both sides is a vexed question, briefly discussed in the course of the Introduction; it is a question that has provoked a large number of dissertations, the titles of which I have recorded on a page devoted to a conspectus of the literature of the subject up to the present date. But the volume now published, while it happens to be the first English commentary on any of the selections included in it, is also the first attempt either in England or elsewhere to put together an edition of all these three speeches in their connexion with one another[1]. As compared with the work demanded by the second half of this volume, where I have been conscious of moving more freely over ground familiarised by more frequent reading of that portion with private pupils between 1867 and 1870, and for public lectures at a later date, the task of writing the first half has proved a somewhat tedious one, owing partly to the necessity of constantly keeping in view all the nine speeches in which Phormion's opponent, Apollodorus, is more or less directly concerned, and of forming an opinion on the numerous points of literary criticism and chronological detail involved in the controversy on the authorship of those orations.

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[1] Mr Penrose's handy volume (now out of print) contained the Speeches against *Aphobus*, *Onetor*, *Zenothemis*, *Apaturius*, *Phormio* (Or. 34, πρὸς Φορμίωνα), and *Lacritus*. The *Eubulides*, *Theocrines* and *in Neaeram* are the only private orations included in the learned edition of Demosthenes by Dr John Taylor (fellow of St John's Coll. from 1726 to 1752), printed at the Cambridge University Press in 1748, 1757 and 1769.

Those who, after finishing the *pro Phormione,* do not care to study minutely the whole of the two speeches against Stephanus, ought, at the very least, to examine the vigorous attack on Phormion which extends from § 71 to § 82 of the first of those two speeches. They should also endeavour to obtain a connected view of the argument by reading consecutively the italicised abstracts inserted at suitable intervals in the course of the commentary. With the help of these abstracts the general reader, the barrister, for instance, who has not remembered all the Greek of his younger days, may perhaps, if tempted to dip into these pages, form some opinion of his own on the forensic oratory of Athens; but my more immediate object in this part of my work has been to obviate any occasion for unduly burdening the notes with those literal renderings which are always welcome to students of the less industrious sort, by supplying instead either a free paraphrase or a condensed summary, as the occasion requires.

The latter half of the volume includes the *Nicostratus,* which was delivered by the same speaker as the two orations against Stephanus, namely by Apollodorus, and also the *Conon,* which is certainly one of the most celebrated of the minor speeches of Demosthenes. To these selections, both of which throw much light on the social life of Athens, I have added the *Callicles*, which, though less well known than the others, will be found one of the pleasantest, while it happens to be the shortest, of all the Private Orations.

The first volume of the Select Private Orations includes the speeches *contra Phormionem* (Or. 34), *Lacritum* (35), *Pantaenetum* (37), *Boeotum de nomine* (39), *Boeotum de dote* (40), and *Dionysodorum* (56). In the preface to that volume it has been already explained that the two volumes are a joint edition on the part of Mr Paley and myself, and I may here repeat that while Mr Paley is mainly responsible for the first volume, I am similarly responsible for the whole of the Introduction and for nearly all the notes of the second, though I have had the advantage of receiving from him a careful revision of all the proof-sheets of my commentary, and a large number of supplementary annotations, many of which have been incorporated with my own, and duly acknowledged by being placed in square brackets and followed by his initial.

J. E. S.

October, 1875.

For the second edition of this volume, the work has been thoroughly revised, and the suggestions with which I have been favoured by scholars who have had occasion to use it, have been carefully considered and in many cases adopted. Some redundant passages have been removed, and room has been found for many additional notes and references. Account has also been taken of the recent literature of the subject, and particularly of the volume on Demosthenes in the important work of Professor F. Blass, entitled *die Attische Beredsamkeit.* Lastly, the manuscripts of Demosthenes in the Paris Library have been specially examined by me during the early part of the present year, and the readings ascribed to them in the former edition have been verified and corrected accordingly.

J. E. S.

October, 1886.

For the third edition, the text as well as the notes has been carefully revised. The text has been accommodated to that of Dindorf as edited by Blass in 1889; and the points in which the revised text differs from that of Dindorf's own edition, together with the reasons for such difference, have been indicated in the critical notes. In the explanatory notes I have added references to Aristotle's *Constitution of Athens*, and to the recent literature of the speeches included in the present volume. The work to which I have been most indebted is G. Huettner's valuable monograph on the first speech against Stephanus, published in 1895. The comparison of the language of that speech with that of the undoubtedly genuine speeches is there carried still further than I had occasion to carry it in my former edition. The result of this comparison is to give strong support to the view that the speech in question was really the work of Demosthenes.

J. E. S.

March, 1896.

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SELECT LIST OF EDITIONS, DISSERTATIONS AND BOOKS OF REFERENCE

ON THE SELECTIONS INCLUDED IN THIS VOLUME.

TEXT.

(1) **J. G. Baiter and H. Sauppe.** *Oratores Attici*, in one volume 4to. Zürich, 1850. (2) **Imm. Bekker.** *Demosthenis Orationes;* stereotyped edition, 8vo. Leipzig, 1854—5 [earlier editions, Oxford 1822, and Berlin 1824]. (3) **W. Dindorf.** *Demosthenis Orationes* [Leipzig, 1825, Oxford, 1846], *editio tertia correctior*, (Teubner) Leipzig, 1855, reprinted in subsequent years; *editio quarta correctior*, revised by **F. Blass.** 1885—9. (Vol. II Part 2 includes Or. 36; and Vol. III Part 1, all the remaining selections of the present volume.)

COMMENTARIES.

I. GENERAL.

(1) **G. H. Schaefer.** *Apparatus Criticus ad Demosthenem Vinc. Obsopoei, Hier. Wolfii* [1572], *Jo. Taylori* [1748, 1757] *et Jo. Jac. Reiskii* [1770—1775] *annotationes tenens. Commodum in ordinem digestum aliorumque et suis annotationibus auctum edidit Godofredus Henricus Schaefer.* London, 1824—7, Vol. IV pp. 590—618 (on Or. 36); Vol. V pp. 167—214 (on Or. 45 and 46); pp. 346—407 (on Or. 53, 54 and 55). (2) **G. S. Dobson.** *Oratores Attici, Graece cum notis variorum*, XVI vols. London, 1828. Vol. VII, Dem. Or. 21—38; Vol. VII, Or. 39—59; Vol. IX *Reiskii Annotationes*, etc. Vol. XI *Reiskii indices Graecitatis.* (3) **W. Dindorf.** *Demosthenes ex recensione Gulielmi Dindorfii*, Oxford. Vol. VII [1849] *Annotationes interpretum ad* Or. XXVII—LXII.

II. SPECIAL.

(1) **A. Westermann.** *Ausgewählte Reden des Dem.*, part 3, pp. 111—134, *Rede gegen Konon* (Or. 54). Also contains *adv. Aristocratem* and *in Eubulidem.* Berlin (3rd ed. 1890). (2) **G. Huettner.** *Dem. pro Phormione oratio adnotatione critica instructa et commentario explanata*, pp. 104 [without text], (Jung) Erlangen, 1885. (3) **G. Huettner.** *Dem. oratio in Stephanum prior num vera sit inquiritur*, pp. 65, (Brügel) Ansbach, 1895.

LEXICOGRAPHY AND TEXTUAL CRITICISM.

(1) **Harpocration.** *λέξεις τῶν δέκα ῥητόρων*, ed. W. Dindorf; Oxford, 1853: (also Pollux, and Anecdota Graeca, ed. Bekker; and Hesychius, ed. Schmidt). (2) **T. Mitchell** (after Reiske 1775). *Indices Graecitatis in Oratores Atticos*, 2 vols. and *Index Graecitatis*

Isocraticae, Oxford, 1828 [uniform with the Oxford edition of Bekker's *Oratores Attici*]. (3) **S. Preuss.** *Index Demosthenicus*, (Teubner) Leipzig, 1895. (4) **P. P. Dobree.** *Adversaria;* cura Scholefield; Cambridge, 1833 (ed. Wagner, Leipzig, 1875).

DEMOSTHENIC LITERATURE.

I. GENERAL.

(1) **Arnold Schaefer.** *Demosthenes und seine Zeit.* 3 vols., esp. vol. III part 2, *Beilagen: die Reden in Sachen Apollodors* (Or. 36, 45, 46, 53 etc.) pp. 130—199. Rede wider Konon (Or. 54) pp. 247—252; gegen Kallikles (Or. 55) pp. 252—7. Leipzig, 1856—8; new ed. of vol. I, II and part 1 only of vol. III, 1886—7; part 2 will not be reprinted.

(2) **F. Blass.** *Die Attische Beredsamkeit*, esp. vol. III *Demosthenes;* (Teubner) Leipzig, 1877; ed. 2, 1893.

(3) **S. H. Butcher.** *Demosthenes*, (Macmillan) London, 1881.

II. SPECIAL.

On Or. 36, 45, 46 and 53.

(1) **C. D. Beels.** *Diatribe in Dem. orationes* I *et* II *in Stephanum* (Or. 45 and 46), pp. 122, Leyden, 1823. (2) **Im. Hermann.** *De tempore, quo orationes quae feruntur Demosthenis pro Apollodoro et Phormione scriptae sint, disputatio* (on Or. 36, 45, 46, 53 etc.) pp. 22. Erfurt, 1842. (3) **A. Westermann.** *Untersuchungen über die in die Attischen Redner eingelegten Urkunden*, pp. 136 (esp. pp. 105—113 on the depositions in Or. 45 and 46). Leipzig, 1850. (4) **W. Hornbostel.** *Ueber die vom Dem. in Sachen des Apollodor verfassten Gerichtsreden*, pp. 42. Ratzeburg, 1851. In the *Neue Jahrbücher für Philologie* 1854, 2, pp. 504—5 there is a suggestive review of this dissertation by **C. Rehdantz**, who also gives a short account of Apollodorus in his *vitae Iphicratis Chabriae Timothei*, 1845, pp. 191—3, (where he promised a special dissertation of his own, which unhappily never appeared). (5) **Im. Hermann.** *Einleitende Bemerkungen zu Dem. paragraphischen Reden* (Or. 36 etc.) pp. 23. Erfurt, 1853. (6) **F. Lortzing.** *De orationibus quas Dem. pro Apollodoro scripsisse fertur*, pp. 94. Berlin, 1863. (7) **J. Sigg.** *Der Verfasser neun angeblich von Dem. für Apollodor geschriebener Reden. Besonderer Abdruck aus dem sechsten Supplementbande der Jahrbücher für classische Philologie*, pp. 396—434. Leipzig (Teubner), 1873. (8) **I. E. Kirchner.** *De litis instrumentis quae exstant in Demosthenis quae fertur in Lacritum et priore adv. Stephanum orationibus*, pp. 40. Halle (Hendel), 1883. (9) **H. Schucht.** *De litis instrumentis prioris adversus Stephanum orationis Demosthenicae*, pp. 88. Königsberg (Gräfe u. Unzer), 1892. (10) **R. Lallier.** *Le procès du Phormion; études sur les moeurs judiciaires d'Athènes.* Annuaire de l'Association pour l'encouragement des études grecques en France; année xii p. 48—62. (11) **G. Perrot.** *Démosthène et ses contemporains*, in the *Revue des deux mondes*, 1873, 6, pp. 407—39 (on Or. 36, pp. 428—39); reprinted in *Mémoires d'archéologie, d'épigraphie et*

d'histoire, pp. 337—444, Paris (Didier), 1875. (12) **C. Rueger.** *Zu Dem. Rede für Phormion*, Neue Jahrbücher, 1896, p. 35—40. Or. 36 Arg. 5, proposes *παλλακὴν αὐτοῦ* (Phormion) *γενομένην*, quoting Or. 45 § 84. In § 3, *ἐπειδὴ φέρειν τοῦτον οὐχ οἷός τ' ἐστί*, takes Apollodorus as the subject, and Phormion as the object. § 12 defends *τοῦ ἴσου ἀργυρίου* as an oratorical exaggeration. § 32 places *τῷ τὸ τέταρτον μέρος—ἁπάντων* after *γεγαμῆσθαι*. § 45 places *καὶ ζῇς ἀσελγῶς* after *αἰσθάνεσθαι*, and omits *ἐκεῖνος* in next line. § 46, for *οὐχ ὁρᾷ*, proposes *ὑφορᾷ*, or *ὑφορᾶται*. § 47 takes *ἐλέγχεις* either as a synonym of *ἄγεις εἰς μέσον* and *δεικνύεις* (quoting 26 § 18 *ἐλέγξαι τἀπόρρητα τῆς πολιτείας*), or as an equivalent to *ὀνειδίζεις*.

(13) **R. Duncker.** *Inter privatarum causarum orationes Demosthenicas quae pro genuinis habendae sint quaeque pro falsis breviter exponitur.* Greiffenberg, pars i, 1877. (14) **P. Uhle.** *Quaestiones de orationum Demostheni falso addictarum scriptoribus*, i (Or. 35, 43, 46; 50, 52, 53, 59), Leipzig (Fock), 1883: ii pp. 32 (Or. 33, 34, 56), ib. 1886. (15) **W. H. Kirk.** *Demosthenic Style in the Private Orations*, pp. 48, Baltimore (Friedenwald Company), 1895.

On Or. 54.

(1) **G. Perrot.** *Revue des deux mondes*, 1873, 3, pp. 927—53 (esp. 946—53). (2) **C. Zink.** *Adnotationes ad Dem. orationem in Cononem*, pp. 30. Erlangen (Jung), 1883.

GREEK ANTIQUITIES.

(1) **A. Boeckh.** *Die Staatshaushaltung der Athener*, ed. 2, 1851; ed. 3, 1886. *Public Economy of Athens*:—1st German ed. translated by Sir George Cornewall Lewis, 1828, 1842; 2nd German ed. translated by Lamb, Boston, U. S., 1857. (2) **K. F. Hermann.** *Lehrbuch der Griechischen Antiquitäten*, (*a*) *Staatsalterthümer* ed. 6, Thumser, 1893. (*b*) *Privatalterthümer*, ed. 3 (excluding Law, see below), Blümner, 1882. (3) **W. A. Becker.** *Charikles*, ed. K. F. Hermann, 1854, ed. Göll 1877; abridged English transl. by F. Metcalfe, 1845, ed. 3, 1866. (4) **B. Büchsenschütz.** *Besitz und Erwerb im griechischen Alterthume.* Halle, 1869. (5) **G. Busolt.** *Staats- u. Rechtsalt.* ed. 2, Munich, 1893. (6) **Gilbert.** *Const. Antiquities*, Eng. ed. 1895. (7) **Gardner and Jevons.** *Manual*, 1895.

Greek Law.

(1) **J. B. Télfy.** *Corpus Iuris Attici;* Pesth, 1868. (2) **Meier und Schömann.** *Der Attische Process;* Halle, 1824: new edition revised by **J. H. Lipsius**; Berlin, 1881—6. (3) **K. F. Hermann.** *Griechische Antiquitäten*, new ed. vol. II part 1, *Rechtsalterthümer*, ed. Thalheim, ed. 4, 1895. (4) **C. R. Kennedy.** (*a*) *Articles* in Smith's *Dict. of Greek and Roman Antiquities*, 3rd ed. by Wayte and Marindin, London, 1890. (*b*) *The Orations of Dem.* translated with notes and dissertations, 5 vols. London, reissued 1880. (5) **E. Caillemer.** (*a*) *Articles* in Daremberg and Saglio, *Dictionnaire des Antiquités Grecques et Romaines*, parts 1—22, A—Hercules, Paris (Hachette) 1873— . (*b*) *études sur les antiquités juridiques d'Athènes* 1865—80. (6) **R. Dareste.** *Les plaidoyers civils de Démosthène*, traduits en Français, avec arguments et notes, vol. I pp. 385; II pp. 364 Paris (Plon), 1875.

EXPLANATION OF THE SYMBOLS USED IN THIS EDITION IN RECORDING VARIOUS READINGS.

As a general rule, wherever the text (that of W. Dindorf's fourth Edition, as revised by Blass in 1889) agrees with that of the Zürich editors, I have not thought it necessary to notice any variations in the MSS. Where Dindorf differs from the Zürich editors, the difference is in most cases due to the greater weight given by the latter to the readings of the Paris MS S.

Z stands for the *Zürich* text of Demosthenes as printed by J. G. Baiter and H. Sauppe in their excellent edition of the *Oratores Attici*, in one volume (1850).

'Bekker st.' is Bekker's stereotyped edition published at Leipzig in 1854. The readings adopted in his Berlin ed. 1824 have been occasionally recorded. When Dindorf differs from the Zürich editors, he generally agrees with Bekker. When a note begins with Bekk., it is meant that Dindorf's text is supported by Bekker's Berlin and Leipzig editions; then, after a slight space, follows the reading of the Zürich editors (Z) with the MSS supporting it, introduced by the word *cum*.

The MSS thus quoted by the Zürich editors are as follows:

S (or Σ) in the *Bibliothèque Nationale*, Paris (No. 2934), on parchment; of century X. "Primae quidem classis unus superest Parisinus S" Dindorf, praef. ed. Oxon. p. vi. This is admitted on all hands to be the best MS, and its readings are very often accepted by Bekker and still more frequently by the Zürich editors. A careful description of it was published by Voemel (*Σ codicis Demosthenici conditio describitur*) in 1853. A facsimile of the whole was published in 1893, Paris (Leroux). For a protest against *excessive* deference to its authority, see the Preface of Shilleto's fourth edition of the *De falsa legatione*, pp. vii, viii, xiv. By examining the MS I have ascertained that the readings assigned to it in the former edition, on the authority of the *apparatus criticus* of the Zürich editors, are wrong in the following instances, in Or. 45 § 87, the MS has *καὶ παράδειγμα*, not *παράδειγμα*; in 46 § 6 *ἐν* (not *ἐν τῷ*) *γραμματείῳ*; in 46 § 12 *ἐξεῖναι ἐπ' ἀνδρὶ* (not *ἐπ' ἀνδρὶ ἐξεῖναι*) *θεῖναι*; and in 55 § 5 it has *ὑμῖν*, not *ἡμῖν*. In the last instance, the same mistake has found its way into the critical notes of Dindorf's Oxford ed.

F. *Codex Marcianus* (No. 416), in the Library of St Mark's at Venice, on parchment; of century XI. The best MS of the second group or family (Dindorf), but closely followed by the *Codex Bavaricus* (B).

Q (or Φ). In the same Library (No. 418), on parchment; of century XI.

k. In the *Bibliothèque Nationale* Paris (No. 2998), on cotton paper (bombycinus), *forma quadrata;* of century XIV. Includes Or. 54 (κατὰ Κόνωνος).

r. In the same Library (No. 2936), on parchment *forma maxima;* of century XIII.

A (or A[1]). *Augustanus primus*, formerly at Augsburg (*Augusta Vindelicorum*), now at Munich (No. 485), on parchment, *paene quadratus;* of century XI (according to Dindorf), or XII (according to the Zürich edition).

B. *Bavaricus*, now at Munich (No. 85), on cotton-paper (bombycinus) *forma maxima;* of century XIII.

γρ. A contraction for γράφεται, used in the MSS themselves to introduce the marginal citation of a various reading.

TABLE OF ATTIC MONEY.

	Values in English money.	
8 χαλκοῖ = 1 ὀβολός	1·62*d*	1·3̇*d*
6 ὀβολοί = 1 δραχμή	9·72*d**	8*d*†
100 δραχμαί = 1 μνᾶ	£4 1*s*	£3 6*s* 8*d*
60 μναῖ = 1 τάλαντον	£243	£200

Like the *τάλαντον* of 6000 *δραχμαί*, the *μνᾶ* was not an actual coin but only a term used in keeping accounts to denote a sum of 100 *δραχμαί*.

* This is the equivalent given in Hussey's *Ancient Weights and Money*, pp. 47, 48, followed in the second edition of Smith's *Dictionary of Greek and Roman Antiquities*, s. v. DRACHMA. It assumes that an Attic drachma contains only 65·4 grains Troy of pure silver. As a shilling contains 80·7 grains of pure silver; a drachma is reckoned as $\frac{65\cdot4}{80\cdot7}$ of a shilling, or 9·72 pence.

† This is the equivalent proposed in Professor W. W. Goodwin's article on *the Value of the Attic Talent in Modern Money* in the *Transactions of the American Philological Association* 1885, xvi, p. 117—9. It has been ascertained that the Athenians coined their silver pure, and the best specimens of Attic coinage prove the weight of the drachma to be 67·38+ grains troy of pure silver. The average price of *pure* silver for the last quarter of a century having been 57 pence per ounce of 480 grains, it follows that the amount of silver in a drachma is worth $\frac{67\cdot38}{480}$ of 57 pence = 8·001375 pence.

In the third edition of Smith's *Dictionary*, ii p. 1004, ed. 1890, the amount of silver in a drachma is similarly reckoned as worth 8½*d.*, silver being taken at 5*s.* an ounce troy. But its value, 'if compared with English *coined* silver, would be much higher: *e. g.* the shilling weighs 87·27 gr., and contains only about 80 gr. of pure silver. The drachma, of 67·5 gr. pure, is obviously more than ⅔rds of this. For practical purposes it is perhaps better to reckon the *drachma* as worth about a French franc (9⅜*d.*), the *mina* £4.'

N.B. Neither of the above estimates takes account of the different *purchasing powers* of silver in ancient and modern times.

INTRODUCTION TO

OR. XXXVI.

ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

IN the early part of the fourth century B.C. there was a noted man of business at Athens, named Pasion. He was originally a slave in the employment of a firm of bankers, but by his industry and integrity he won the confidence of his employers, Antisthenes and Archestratus, and was rewarded by receiving his liberty from the latter and by succeeding both of them in their business[1]. In the *Trapeziticus* of Isocrates, he appears as defendant in a suit brought by the son of a trusted minister of Satyrus, prince of Pontus, and is charged, whether rightly or wrongly, with appropriating a sum of money deposited with him by the plaintiff, with destroying documents detrimental to his own interests, and with other sharp practice of a somewhat unscrupulous character. To examine the justice of these charges is no part of our present duty, nor indeed have we the data for arriving at any decisive result; suffice it to say that, in the language of his very opponent in that action, he is described as one of those bankers who enjoyed a wide connexion and had the management of large sums of money, and whose position as men of business had won them a general confidence[1]. The speech composed by Isocrates probably belongs to the year B.C. 394, when Pasion, though no longer a slave, was only a resident alien (*μέτοικος*)[2]; at a subsequent date, on rising to the privileged position of enjoying as a denizen (*ἰσοτελής*) such civic rights as were not of an expressly political nature, he acquired some property in land, and distinguished himself by his public spirit, on one occasion in particular presenting the State with a thousand shields from his own manufactory, and five triremes equipped at his own expense[3]. In recognition of these services, Athens rewarded him with the rights of her citizenship[4].

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[1] Or. 36 § 43 sq.—On the *Trapezitae*, see Becker's *Charicles* scene IV; K. F. Hermann, *Privatalterthümer* § 48; Büchsenschütz, *Besitz und Erwerb* pp. 500—510; Perrot in *Revue des deux mondes*, 1873, 6 p. 408, reprinted in *Mémoires d'archéologie, d'épigraphie et d'histoire*, 1875, p. 337—444; also Göll's *Kulturbilder*, I 189—197, and Huettner's *Dissertation* on this speech, 1885, p. 98—104.

Among those who had business relations with him we find Athenians of high position like Timotheus, the celebrated general[5], and Demosthenes, the father of the orator[6]; his bank in the Peiraeus enjoyed, in the Euxine and elsewhere, a credit co-extensive with the commerce of Attica: even eight years after his death, Apollodorus, of whom we shall hear more anon, had only to declare himself as Pasion's son to be at once enabled to raise a loan in a foreign land[7]; and in later ages, in the imaginary letters of Alciphron, the Atticist who in the latter part of the second century of our era attempted to revive the memories of the times of Menander, we find the vulgar money-lender contrasted with a banker of blameless reputation, who bears the appropriate name of Pasion[1].

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[1] Isocr. *Trapez.* § 2.

[2] *ib.* § 41.

[3] Or. 45 § 85.

[4] Or. 36 § 47, Or. 46 § 15, Or. 53 § 18, Or. 59 § 2 *ψηφισαμένου τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναῖον εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν.*

[5] Or. 49 *πρὸς Τιμόθεον ὑπὲρ χρέως.* Cf. note on Or. 36 § 53, p. 50.

[6] Or. 27 § 11.

[7] Or. 50 § 56 *διὰ τὸ Πασίωνος εἶναι καὶ ἐκεῖνον ἐπεξενῶσθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι οὐκ ἠπόρουν, ὅπου δεηθείην δανείσασθαι.*

Pasion, in his old age, finding his eyesight failing him, and being only able to walk with difficulty up to Athens from his bank in the Peiraeus[2], four or five miles distant, transferred his business, including not only his bank but also his shield-manufactory, on lease to his managing clerk Phormion[3], who, like his employer, was himself originally a slave[4], and obtained his freedom as the reward of honest service[5]. We read of him as a generous and energetic man of business, and his skilful management is said to have been the very saving of the property of his former master[6]. From the nature of the case, as well as from certain chronological considerations, it may be concluded that the lease to Phormion belongs to a date before, but not long before, Pasion's death in B.C. 370[7]. In B.C. 372, we find the latter still managing his business on his own account[8], and we may therefore fix on B.C. 371 as the probable date of the lease. Pasion left behind him a widow, Archippe by name[9], and two sons by her, the elder, Apollodorus, who was four-and-twenty years old at his father's death[10], and the younger, Pasicles, who came of age eight years after (namely, in B.C. 362)[11]. In his will he provided that his widow should be married to Phormion, with a dowry of two talents, a dwelling-house valued at one hundred minae, maid-servants, gold ornaments and all that formerly belonged to his wife[1]. By this will, Phormion also became one of the guardians to Pasion's younger son, Pasicles. He was to continue lessee of the bank and shield-manufactory until Pasicles came of age, and it was the father's wish that until that time the property should remain undivided. Owing, however, to the extravagance of the elder son, the guardians, acting in the interest of their ward, determined on a partition of all the property, with the exception of the bank and shield-manufactory leased to Phormion, half the rent of which was for the present paid to Apollodorus, and half reserved for Pasicles, the minor[2].

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[1] Alciphron III 3. See note on Or. 45 § 70.—Mr Mahaffy in his *Social Greece* gives a slight sketch of Pasion, to illustrate the business habits of the Greeks, pp. 382—6; cf. Perrot, quoted on p. xix.

[2] Or. 52 § 13 quoted in note on Or. 36 § 7.

[3] Or. 36 § 4, Or. 45 § 33.

[4] Or. 45 §§ 71—76.

[5] Or. 36 § 30.

[6] Or. 36 §§ 49—53.

[7] Or. 46 § 13 *ἐπὶ Δυσνικήτου ἄρχοντος*, Ol. 102, 3 = July 370—July 369 B.C.

[8] Or. 49 §§ 29, 59. In the archonship of Alcisthenes, Ol. 102, 1 (Arnold Schaefer, *Dem. u. s. Zeit*, III 2 p. 132).

[9] Or. 45 § 74.

[10] Or. 36 § 22.

[11] Or. 36 §§ 10 and 37 compared together (A. Schaefer, u. s.).

Apollodorus was at Athens in B.C. 370 and appears to have been present at his father's death-bed[3], and some time after this, he was abroad in the public service as trierarch, probably in the year B.C. 368[4]. It was during his absence that, in accordance with his father's will, his mother was married to Phormion; the son, on his return home, resented this arrangement, and as the courts were not open at that time for private lawsuits, he took steps to bring a public indictment against Phormion, for criminal outrage on his mother (γραφὴ ὕβρεως). However, a reconciliation was brought about and the charge was not pressed[5].

In B.C. 362, when Pasicles came of age, his guardians gave an account of their trust, which was acknowledged as correct, and Phormion's lease of the bank and manufactory terminated with a discharge given him on the part of Apollodorus from all liabilities under the lease. The elder brother then, having the prior choice, took the manufactory, leaving the banking business to his younger brother[1]. For a short time the brothers appear to have superintended their property in person; but not long after, possibly a year subsequent[2] to the partition, a new lease of the bank and the manufactory was granted to certain persons, at a rent which was the same as that which had been paid by Phormion[3], namely, 2 talents and 40 minae[4], out of which one talent[5] was due to Apollodorus for the manufactory, and the remainder to Pasicles for the bank. This second lease was granted not by Pasicles alone, but by Apollodorus acting in conjunction with his younger brother.

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[1] Or. 45 § 28 *ad fin.*

[2] Or. 36 §§ 8—10, § 34.

[3] Or. 49 § 42.

[4] Or. 45 § 3; 46 § 21. See note on p. lvii *infra*.

[5] Or. 45 §§ 3, 4.

Phormion, meanwhile, being quit of his trust as guardian, and of his lease of the bank and manufactory, established a banking business on his own account, and, like his former master, Pasion, obtained a recognition of the general esteem in which he was held, by being presented with the citizenship. The date of this event was B.C. 361[6]. In the year B.C. 360, after a protracted service as trierarch in the Northern Aegean and the neighbouring waters, Apollodorus returned to Athens to find his mother at death's door. She died six days after; but not before she had seen and recognised her son, though according to his own account she was unable to make such provision for him as she had intended[1].

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[1] Or. 36 §§ 10, 11.

[2] The Rev. A. Wright, Fellow and Lecturer of Queens' College, has favoured me with some criticisms questioning the probability of any interval having elapsed between the two leases. 'Apollodorus,' he observes, 'was not a man of business habits: Pasicles was a mere lad, not likely to undertake the management of a bank, even with the most confidential clerk. I can find nothing to indicate that they did thus hold the property except *ὕστερον* in § 12 which is hardly decisive, and can scarcely be maintained in face of the direct evidence the other way in § 37. It is more probable (and this will solve the further difficulty started in the note on § 12 *μισθῶν ἑτέροις*), that Apollodorus, knowing Phormion's lease to be expiring, looked out for some other lessees, and entered into an engagement for a lease with Xenon &c. some months before the lease expired. Xenon would enter on the property as soon as Phormion quitted it, whereas some days might pass before the *νομὴ* was completed. And so Phormion may actually have acted as lessor.'

[3] Or. 36 § 12 *τοῦ ἴσου ἀργυρίου.*

[4] Or. 36 § 51, cf. § 11.

[5] Or. 36 § 37 *ad fin.*

[6] Or. 46 § 13 *ἐπὶ Νικοφήμου ἄρχοντος*, Ol. 104, 4=B.C. 361—360.

The mother's death was the signal for a fresh outbreak of the differences between Apollodorus and his step-father Phormion. The step-son put in a claim for 3000 drachmae, which was submitted to arbitrators, who established the claim and induced Phormion for quietness' sake to pay it to Apollodorus. The latter then gave Phormion a second release from all claims[2].

Phormion, however, had not yet seen the last of his litigious step-son; the latter, after numerous lawsuits with his father's debtors, in which he succeeded in recovering no less than 20 talents[3], was at last prompted, by pecuniary exigencies due to his extravagance, and by feelings of envy at Phormion's prosperity, to put in a claim about twenty years after the father's death for another sum of 20 talents, alleged to have been transferred to Phormion by the father as part of the working capital (ἀφορμὴν) of the business[4].

The defendant, as we learn from the speech *pro Phormione*, expected that Apollodorus' contention, that Phormion must have received such capital, would be supported by presumptive proofs alone. He would argue that, without such a fund, it was incredible that Phormion, who was merely a liberated slave, should have managed the business and risen to opulence, while he himself, a rich man's son, had been reduced to penury (§ 43). To give stronger proof than these *a priori* probabilities had been made impossible, he would assert, by Phormion's having induced his wife to destroy Pasion's papers (§ 18); he would also denounce the lease and the will as forgeries, and would make out that it was only while Phormion promised him a high rent, that he kept silence on his claim, but as he had not fulfilled these promises, he was compelled to bring the case before the court (§ 33).

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[1] Or. 50 § 60 quoted in note on Or. 36 § 14.

[2] Or. 36 §§ 15—17.

[3] Or. 36 § 36.

[4] Why *twenty* talents were claimed does not appear, but we may conjecture that that amount arose out of the eleven talents mentioned in Or. 36 § 11, with the addition of interest. Phormion's lease lasted for 8 years; 11 talents, at say 10 per cent. simple interest (not an uncommon rate at Athens), would with the interest amount to exactly 20 talents in 8 years (and a fraction of a year over, $\frac{2}{11}$).

The arguments here anticipated by the defendant appear again in the first speech against Stephanus (Or. 45), a speech arising out of the present lawsuit. The case came in the first instance before an arbitrator, Teisias[1] by name, but was left undecided by him, and was accordingly brought before a public tribunal. The writer of the Greek argument, generally supposed to be Libanius, calls the suit a δίκη ἀφορμῆς, though it has been doubted whether there is any ancient authority for the existence of such a suit under that designation[2]. However, the phrase ἀφορμὴν ἐγκαλεῖν occurs in the speech itself (§ 12), in reference to the plaintiff's claim to the capital of the bank.

To meet this claim, Phormion, instead of waiting for the plaintiff to bring his case before the court and then confronting his opponent with a direct denial and joining issue on the merits, preferred putting in a special plea in bar of action, a plea technically known in Greek law as a *παραγραφή*, showing cause on the part of the defendant why the case should not be allowed to come on for trial at all. The two pleas urged on the defendant's behalf are (1) that the plaintiff had given him a discharge from the original lease of the bank and manufactory, and also a second discharge from a subsequent claim settled by arbitration (§§ 23—25); (2) that the plaintiff's suit contravened the statute of limitations, in which the term of five years was fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff was putting in a claim after the lapse of more than twenty years from the date of the lease (§ 26). To maintain these pleas is the object of the speech *pro Phormione*, though it is only a small portion of it that is directly concerned with them, such technical pleadings being naturally unpopular with juries, who regarded them as mere makeshifts, to gain time and evade the ends of justice[1]. Hence a large part of the speech is devoted to arguing on the case itself, thus proving that the defendant's resort to special pleading was not due to any fear of meeting the plaintiff on the main issue. All this was of course irrelevant to the real question before the court, and counsel would hardly be permitted by any judge now-a-days to travel so widely out of the 'record.' In such a case, the defendant spoke first[2]; thus, while he was under the slight disadvantage of the *onus probandi*, he had on the other hand the benefit of the first hearing, and might at once produce a favourable impression of the strength of his case, which would put a stop to further litigation.

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[1] Or. 45 § 10.

[2] Dareste, *les plaidoyers civils de Dém.* II 145 : '*Est-il vrai que les Athéniens eussent créé une action spéciale pour les affaires de ce genre?*' But cf. Caillemer, *le contrat de prêt à Athènes*, p. 28—31, where δίκη ἀφορμῆς is distinguished from δίκη ἀργυρίου, δίκη χρέους and other terms, and accepted without suspicion as a term of Attic law. Similarly in Meier und Schömann, *Att. Process*, p. 697 Lips.

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[1] Cf. Isaeus Or. 7 § 3 *εἰ μὲν ἑώρων ὑμᾶς μᾶλλον ἀποδεχομένους τὰς διαμαρτυρίας ἢ τὰς εὐθυδικίας κ.τ.λ.*

[2] See note on Or. 36 Arg. line 25 *ad fin.* The writer of the life of Demosthenes in the *Orations on the Crown* published by the Clarendon Press appears to have overlooked this in stating: 'it is clear that in the speech to which Demosthenes, in behalf of Phormion, composed a reply, Apollodorus had dwelt much on the fact of Phormion having been his father's slave' (p. xxxiii). Apollodorus did not address the court at all; he could not speak *before* the case, for the special plea had been opened on the side of the defendant, and the jury would not listen to him after.

Phormion, being of foreign extraction and unpractised in public speaking, does not address the court in person (§ 1); his friends speak in his stead, and the case is opened on his behalf in an oration composed but almost certainly not spoken by Demosthenes[1], which forms the first of the selections included in the present volume[2].

The speech contains several notes of time which approximately determine the date of its delivery. In § 26 we are told that 'more than twenty years' have elapsed since the lease granted by Pasion; in § 19 we find that 'eighteen years' have passed since the partition of the property effected by the guardians in consequence of the extravagance of Apollodorus; and in § 38 the same period is described in general terms as 'about twenty years.' Pasion died in B.C. 370 and the above indications point to the year B.C. 350 as the probable date of the speech. As we have already observed, the lease would be granted to Phormion before B.C. 370, and probably after B.C. 372, i.e. in B.C. 371. Thus 21 years would have passed since the grant of the lease. At first sight the term of eighteen years above mentioned might seem to point to B.C. 352[1], but it appears certain that the partition of property was not effected *immediately* after the death of Pasion. Some allowance must be made for the time during which the extravagance of Apollodorus was running its course (§ 8), before the guardians came to the conclusion that a partition of the property was inevitable; and the term of eighteen years is reckoned, it will be observed, not from the death of Pasion but from the division of his estate.

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[1] The contrary might be inferred from the language of Deinarchus *contra Dem.* § 111 (Δημοσθένους) λογογράφου καὶ μισθοῦ τὰς δίκας λέγοντος ὑπὲρ Κτησίππου καὶ Φορμίωνος (compare p. xli). But the authority of Aeschines, in a speech delivered only seven years after the *pro Phormione*, supports the opinion expressed in the text, *de fals. leg.* § 185 ἔγραψας λόγον Φορμίωνι (cf. Or. 46 § 1 οἱ γράφοντες καὶ οἱ συμβουλεύοντες ὑπὲρ Φορμίωνος). Lortzing, *Apoll.* p. 14, who agrees with A. Schaefer, *Dem. u. s. Zeit*, p. 169.

[2] It is unnecessary in this place to give a detailed account of the speech itself, as its contents are analysed in the italicised abstracts printed at convenient intervals in the course of the commentary. The reader who desires a general view of the drift of the argument may do well to read all the abstracts consecutively before settling down to the perusal of the Greek.

Again, the speech of Apollodorus against Nicostratus, § 13, shews that after his return from his Sicilian trierarchy which on independent grounds may be placed in B.C. 368, he was not yet in possession of his share of the estate. We find that he was compelled to raise money on the security of his house and to pledge some of his plate; we may therefore conclude that the partition was not earlier than B.C. 368, and the 'eighteen years' bring us once more to B.C. 350 as the date of the speech.

Further, the lease of Phormion lasted eight, that of the subsequent lessees, ten years; but it would be far from correct to assume that this points to the lapse of only eighteen years from the death of Pasion to the delivery of the speech, and consequently to B.C. 352 for the date of the latter; for (1) the previous lease began *before* the death of Pasion, (2) the subsequent lease does not appear to have followed immediately on the expiration of the first lease[2], and (3) the second lease had terminated before the date of the speech[1]. The date B.C. 352, besides being open to the objection that the phrase 'more than twenty years' has to be explained away as a round number, in other words as equivalent to *less* than twenty years, only just allows time for the two leases, with no margin over, either for the interval between the first and second, or for the further interval after the second; while B.C. 350 is consistent with both these data[2].

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[1] This date is accepted by Droysen (*Zeitschrift für d. Alterthumswissenschaft* 1839 p. 930), Hornbostel (*Apoll.* p. 20), and A. Schaefer (u. s., p. 168—9).

[2] § 11 *εὐθὺς ὡς ἀφεῖσαν τουτονὶ τῆς μισθώσεως νέμονται τὴν τράπεζαν κ.τ.λ.*, § 13 *ἐμίσθωσεν ὕστερον Ξένωνι κ.τ.λ.*

The only difficulty in our accepting this date arises from the reference to Callippus in § 53, as then alive in Sicily. Now Callippus left that island for Rhegium in the spring of B.C. 350 at the latest, and was killed in the same year. This would reduce us to the alternative of either supposing that the news of these events had not yet reached Athens, or resorting to the heroic remedy of striking out the words as spurious[3]. Otherwise, it may be worth while to suggest as the date the latter part of B.C. 351; this would involve our reckoning the term of 'more than twenty years' from the beginning of B.C. 371 to the end of B.C. 351 *inclusive*, and similarly the eighteen years from the partition would be counted inclusively from B.C. 368 to B.C. 351.

The speech is undoubtedly the genuine work of Demosthenes; this is proved not only by the testimony of

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[1] § 14 *ἐλευθέρους ἀφεῖσαν...καὶ οὐκ ἐδικάζοντο οὔτ' ἐκείνοις τότ' οὔτε τούτῳ.*

[2] Ol. 107, 3=B.C. 350—349. This date is supported by Fynes Clinton; Böhnecke (*Forschungen auf dem Gebiete der Attischen Redner*, I 43, 67); Imm. Hermann (*de tempore, &c.* p. 11 and *einleitende Bemerkungen zu Dem. paragraph. Reden* p. 16); Rehdantz (*Jahns neue Jahrb.* LXX p. 505); Lortzing (*Apoll.* p. 15—18); Sigg (*Apoll.* ap. *Jahrb. f. class. Philol.* Suppl. Bd. VI Hft. 2 p. 406—8); Blass, *Att. Ber.* III 405[1], 462[2]; and Huettner, *Disputatio*, p. 18.

[3] This has been proposed by Sigg, u. s., p. 408, who objects to them as breaking the symmetry of the sentence *οὐχὶ Τιμομάχου κατηγόρεις; οὐχὶ Καλλίππου; οὐ πάλιν Μένωνος; οὐκ Αὐτοκλέους; οὐ Τιμοθέου; οὐκ ἄλλων πολλῶν;*

Aeschines[1] but by the frequent quotations of ancient lexicographers and grammarians, and the internal evidence is equally conclusive. It holds a high place in his Private Orations; among the merits of its earlier portions may be noticed the closeness of its reasoning and the lucid arrangement of its argument, while its later portions are rendered interesting by the strong invective of the personal attack on the plaintiff and the dignified tone of the appeal to the court in favour of the defendant. All the points are supported by evidence, and except where the public services of the defendant are apparently unduly depreciated[2], there is every evidence of fairness on the part of the speaker. It is a forcible oration, in which we clearly recognise the characteristic feature that gives Demosthenes the superiority over Lysias, the great master of clear narration, and over his own instructor Isaeus, the best lawyer of all the Attic orators, namely, the ethical warmth of colouring, by which the dullest details are lit up with a fresh life and interest[3]. In the words of an able French critic, 'de tous les plaidoyers civils de Démosthène, le plus beau peut-être, celui où l'orateur a mis le plus d'art et de véhémence, c'est le discours qu'il a composé pour le banquier Phormion.' He calls it elsewhere, *un chef-d'œuvre dans son genre*[4]. Professor Jebb has with equal truth touched upon 'the moral dignity of the defence for Phormio[5].' The *proemium* in particular is eulogised as follows in Mr W. H. Kirk's *Demosthenic Style in the Private Orations*[6]:—

This compact little masterpiece fulfils indeed all conventional purposes by exciting goodwill for one party, prejudice against the other, and defining the points to be proved; but there is no conventionality in the exquisitely felicitous phrasing;...the simple gravity of the opening words foreshadows the fine impersonal dignity which the advocate maintains throughout; the warmth and rapidity of the sentence *ὅσα γὰρ—συκοφαντεῖ*, with its unusual and startling anacoluthon, breathes the spirit of all that ardent vituperation and laudation to which so much of the speech is devoted; and the final sentence, *ἐξ ἀρχῆς—ἀκούσαντες*, while constituting the formal transition to the narrative, sums up with noteworthy sharpness and emphatic brevity the whole purpose of the speech in the mention of the two main topics —the point of law (*ὡς οὐκ εἰσαγώγιμος ἡ δίκη*), and the rascality of Apollodorus (*τὴν τούτου συκοφαντίαν*).

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[1] *de fals. leg.* § 165, quoted in full on p. xl.

[2] See §§ 39—42 with notes, and esp. A. Schaefer, u. s., p. 168.

[3] *die ethische Wärme welche selbst einem nüchternen Stoffe Leben verleiht.* A. Schaefer, u. s., p. 168.

[4] Perrot, *Revue des deux mondes*, 1873, 6, pp. 407, 436.

[5] *Attic Orators*, I 309.

[6] Baltimore, 1895, p. 23.

The result was decisive; the court, according to the statement of Apollodorus himself, upheld the plea of the defendant, and refused to listen to any reply on the part of the plaintiff. More than four-fifths of the jury must have voted for the defendant, as we learn that the plaintiff was condemned to pay the *ἐπωβελία*, i.e. a sixth part of the twenty talents claimed, a fine amounting in this case to as much as three talents and twenty minae. We are not surprised to learn that the plaintiff left the court in high dudgeon (Or. 45 § 6).

INTRODUCTION TO

OR. XLV.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ

ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

THE effect of the verdict given in support of Phormion's special plea in bar of the action brought by Apollodorus, was to prevent the latter from raising the same issue again, except in an indirect manner. It was still open to him to bring an action for false evidence against the witnesses on whose testimony Phormion had relied; such an action was known as a *δίκη ψευδομαρτυριῶν*, and if the plaintiff made good his case against the accessories, he could next proceed against the principal who produced them, by an action for subornation of false witness (*δίκη κακοτεχνιῶν*[1]); and in the event of his succeeding in the latter, he might then bring forward afresh his original suit (in the present instance a *δίκη ἀφορμῆς*).

Apollodorus accordingly brought an action for false testimony against one Stephanus, who was called on Phormion's side in the previous trial. This witness deposed to neither of the points on which the special plea was raised; he was neither produced to prove the date of the original lease, shewing the lapse of the term fixed by the Athenian statute of limitations, nor did he give evidence to the release and quittance effected between

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[1] Or. 49 § 56, Or. 47 § 1.

Apollodorus and Phormion; he simply attested a point which was, strictly speaking, irrelevant to the special plea and really belonged to the main issue. He was called, with others, to prove a legal challenge[1] given by Phormion to Apollodorus, demanding that, if the latter declined to admit that a document put in evidence by Phormion was a copy of Pasion's will, Apollodorus should himself open the original; he deposed that Apollodorus declined to open it, and further that the said copy was a counterpart of the original[2].

The plaintiff denies that any such challenge had been made and declares that his father left no will. He contends that (1) had the challenge been given, there could have been no reason for his refusing to open the document (§§ 9—14); (2) it was unnecessary to demand his acknowledgment of the correctness of a copy, when according to his opponents the original might have been readily produced (§§ 15—19); (3) the terms of the deposition were false because it assumed that Pasion made the will alleged, whereas he made no will at all; its terms ought to have run, *not* 'the will of Pasion,' but 'the will Phormion *asserts* to have been left by Pasion' (§§ 24—26). His argument on these points is a singular combination of shallowness and subtlety[3], as may be seen in further detail by referring to the italicised abstract of the somewhat difficult sections here referred to.

He next argues that the terms of the 'will' prove it was forged by Phormion in his own interests (§§ 27—28), that the 'will' was inconsistent with the 'lease,' that the latter was also a fabrication (§§ 29—36), and that the discharge pleaded by Phormion was false (§§ 40—42). In anticipation of the defendant's probable reply, that his responsibility is limited to two points only, (1) Phormion's giving the challenge, and (2) the plaintiff's refusal of it, the plaintiff insists on binding the defendant to the exact terms of his testimony (§§ 43—46). He further submits that, if in the reply any attempt is made to denounce his original action as fraudulent, all such reference to the past must be suppressed by the court as irrelevant to the issue before it (§§ 47—50). If the defendant urged that it was not his own evidence, bearing as it did on the main issue, but the evidence of those who gave witness to the special plea, that was fatal to the plaintiff in the former trial; the answer was, that the evidence on the main issue crippled his case on the special plea (§§ 51—52).

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[1] Or. 36 § 7.

[2] Or. 45 § 10.

[3] *nur einige schwache, ja ganz nichtige τεκμήρια...; gegenzeugen...hat er nicht.* Sigg, *Apoll.* p. 412.

At this point the speaker passes off into petty personalities of a curious description, denouncing the defendant for giving false evidence against him, regardless of the family tie of Apollodorus' marriage with a first cousin of Stephanus, and thus transgressing what he calls by a rhetorical flourish the unwritten laws of natural affection (§§ 53—56); he declares and very inadequately proves, that a legal document on which he had relied in the former trial had been stolen by Stephanus (§§ 57—62); denounces him for truckling to prosperity, for selfishly disregarding the rights of the poor and the claims of the public on his ample resources (§§ 63—67), for his sour and sullen unsociability, and for his merciless extortion as a miserable money-lender (§§ 68—70).

Turning then from the nominal defendant Stephanus to his principal, Phormion, who is the real opponent in the present as in the previous lawsuit, he launches out into a vigorous invective against him, for his gross ingratitude towards the speaker's family who were the very founders of his fortunes (§§ 71—76), contrasts his own orderly life and public services with his opponent's immorality (§§ 77—80), charges him with appropriating money that belonged to Pasion, from whom all his wealth had originally come. Born a barbarian and sold as a slave, he had yet had the audacity to criticize the antecedents of the plaintiff's family (§§ 80—82).

After an ungenerous and gratuitous insinuation, to account for his younger brother Pasicles taking Phormion's part (§§ 83—84), he turns to the jury, reminds them of his father's benefactions to the state, implores them to protect him from one who was once a slave to his family, and from that slave's creature Stephanus; and, while reminding them incidentally of some of the points on which he relied, concludes by claiming a verdict against the man who, by his false evidence for Phormion, had robbed him of his revenge in the previous trial (§§ 85—88).

The defendant Stephanus replied at considerable length[1]. The purport of his defence appears to have been very much what the plaintiff had anticipated in §§ 43—46. In particular, he contended that he was responsible for attesting to the challenge alone and not for any further details incidentally included in his evidence. The existence of the will had been attested by other witnesses than himself, and the court's acceptance of Phormion's special plea was due to *their* evidence on the main issue, and also to the evidence given by *others* on the plea itself, proving the original lease and the subsequent discharge.

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[1] Or. 46 § 1.

INTRODUCTION TO

OR. XLVI.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

THE reply of Stephanus is followed by a second speech on the part of the plaintiff, Apollodorus. In contrast to the presumptive proofs and the passionate declamation of his former effort, we here find, in a far less lengthy and less ambitious form, little more than a series of technical arguments supported by quotations from such parts of the Athenian code as appeared to bear, however remotely, on the case in question.

He charges the defendant with having given 'hearsay evidence' and cites the law against it (§§ 6—8); declares that Phormion, under the mask of the defendant's deposition, has given evidence in his own cause, which is illegal (9—10); he even deduces the falsehood of the deposition from the material on which it was inscribed; instead of being written hurriedly on an ordinary wax-tablet to attest on the spot a *bona fide* challenge, it was drawn up in a more permanent form implying a deliberately fraudulent design (11). He attempts to prove that his father made no will at all, and quotes a law forbidding a man's making a will if he had male issue lawfully begotten (14). He further urges that his father was disabled from disposing of his property by his 'adoption' as an Athenian citizen—a legal quibble arising from the ambiguity of the term relating to adoption, which really refers to the family and not to the state, as the plaintiff disingenuously implies. He also insinuates that his father was debarred from making a will by being under undue influence and of unsound mind (15—17). He further contends that his mother was technically an 'heiress,' and by law held in ward by her nearest relative, namely himself; that her marriage was therefore invalid, being made in his absence, without his consent and without any legal adjudication, and that Pasion's disposal of his wife by will was thus illegal (18—23); that the father's 'will,' if ever made, was vitiated by the fact that there were sons of full age now surviving (24); and that the defendant and Phormion had conspired to defeat the ends of justice (25—26). After a parting sally on Phormion for his disregard of the laws, and a final thrust at the defendant, defying him to shew how he could possibly have known that the document attached to his challenge was a copy of Pasion's will, which he had never seen, and after also asserting that no one ever had a copy made of his own will[1], but kept it by him till his death, he concludes by asking the court to grant him the redress demanded by the claims of justice and the laws of Athens (27—29).

Thus the plaintiff assigns four legal reasons in support of the plea that Pasion's will was a forgery: (1) Pasion was a citizen by 'adoption'; (2) his widow was an 'heiress' legally at the disposal of her son and not her deceased husband; (3) he had legitimate sons, both of whom were now grown up and their coming of age would invalidate any will on the part of the father; (4) he was of unsound mind. On these four points we have only to remark that the first rests on a verbal quibble[2]. (2) There is no indication elsewhere in other speeches of Apollodorus that his mother was technically an 'heiress,' indeed there is reason to suspect that she was not even a native of Athens at all (§ 23); besides, as regards the alleged invalidity of his mother's second marriage, the plaintiff had already in his former speech expressed his acquiescence (Or. 45 § 4). (3) The intention of the law was that if a father, having legitimate male issue, made a will independent of their interests, the terms of the will as affecting other persons were to become valid in the event of the male children dying before they came of age. Thus a father could not disinherit his lawful heir, but he was not prevented from making a will in which the rights of the heir were duly regarded[1]; and indeed, we find that Apollodorus and his younger brother had divided their father's estate between them, and that the former in particular had succeeded to a dwelling-house which was once his father's property. (4) The suggestion of lunacy is inconsistent with Apollodorus' own description of his father's last illness in another speech, by which it appears that he was then clear-headed enough to give his son a particular account of all the sums due to him from his numerous creditors[2].

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[1] See Becker's *Charicles*, Scene xi, note 37.

[2] See note on § 14, and M. Dareste, *les plaidoyers civils de Dém.* ii p. 307—8, where the law is briefly discussed.

On the whole it is obvious that the plaintiff must have been conscious of having a very bad case indeed, and that to maintain it he was compelled to resort to the most contemptible subterfuges[3].

The date of the two speeches must be placed shortly after that of the speech in the suit between Apollodorus and Phormion, i.e. very soon after B.C. 351 or 350.

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[1] Lortzing, *Apoll.* p. 82—3; Dareste, u. s., II p. 293.

[2] Or. 49 (Timoth.) § 42.

[3] *Beide reden, ganz besonders aber die zweite, sind voll bloszer sophismen und spiegelfechtereien so handgreiflicher und oft fast lächerlicher art, dasz* u. s. w. Sigg, *Apoll.* p. 412 and A. Schaefer, u. s., p. 177.

On the authorship of the Two Speeches against Stephanus.

We have seen that the authorship of the speech *pro Phormione* is undisputed; it is doubtless the genuine work of the great orator himself. Whether he is also the writer of both, or at any rate the first, of the two speeches against Stephanus, and of the others delivered by Apollodorus, which have come down to us among the works of Demosthenes[1], is a vexed question, an exhaustive treatment of which would demand an elaborate treatise beyond the compass of the present introduction. All that can here be offered is a brief discussion keeping in view, and where necessary correcting and supplementing, the arguments suggested by previous writers on the subject, and tested by the results of an independent investigation.

In the speech *pro Phormione* the case is supported by two important documents; (1) the lease granted to Phormion, (2) the will left by Pasion. In both the speeches against Stephanus (a witness, it will be remembered, in the former trial), the lease and the will are denounced as a fabrication and a fraud; more than this, while in the previous oration a warm eulogy is passed on the career of Phormion as a blameless man of business and as a generous citizen of irreproachable character, in the two latter the speaker avails himself of all the artifices of subtle insinuation, all the vehemence of unscrupulous invective, to paint his opponent's character in the darkest colours. The question arises whether the two latter speeches, or either of them, could have been written by the same person as the former.

Narrowing the enquiry for our present purpose to those speeches alone which Apollodorus delivered against Stephanus, we may in the first instance examine the *external evidence* (whether contemporary with Demosthenes or not) which may be adduced in support of the genuineness of the two speeches in question. In the first place we must set a passage in Aeschines in which he denounces the orator as a traitor, charges him with writing for a pecuniary consideration a speech for Phormion the banker and with showing this speech to Apollodorus, who was then prosecuting Phormion on a charge imperilling his status as a free man[1]. Here it will be remarked that the description of the trial is vague, and the penalty, to which Phormion would have been liable, much exaggerated; but it is more important to notice that Aeschines says nothing of Demosthenes *writing* a speech for Apollodorus either in the lawsuit with Phormion, or in his subsequent suit against Stephanus. If Aeschines is speaking the truth, then at the worst all that he says is, that, in his opinion, Demosthenes acted in bad faith by betraying his client's interests and allowing his opponent to become informed of the arguments which would be brought against him. But it may be noticed that this course is not necessarily inconsistent with good faith on the part of Phormion's friend, as the orator may have seen no reason for concealing his client's case from his opponent,—especially as the speech on that client's behalf would be the opening speech, and the case would be in no danger of being damaged by any previous attack on the part of the plaintiff. Demosthenes may have been anxious to reconcile the parties and (if possible) put an end to a quarrel which was threatening the disruption of Pasion's family; and so strong was his client's position, that to inform Apollodorus of the case against him and even to show him the very manuscript itself with the friendly advice to drop the lawsuit, would have been no detriment to Phormion's interests[2].

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[1] The speeches by Apollodorus (with the dates assigned to them by A. Schaefer) are Or. 52 *πρὸς Κάλλιππον*, B.C. 369—8; Or. 53 *πρὸς Νικόστρατον*, after B.C. 368; Or. 49 *πρὸς Τιμόθεον ὑπὲρ χρέους*, B.C. 362; Or. 50 *πρὸς Πολυκλέα περὶ τοῦ ἐπιτριηραρχήματος*, about B.C. 357; Or. 45 and 46 *κατὰ Στεφάνου ψευδομαρτυριῶν α′* and *β′*, about B.C. 351; Or. 59 *κατὰ Νεαίρας*, after B.C. 343;—Or. 47 *κατ' Εὐέργου καὶ Μνησιβούλου* was delivered after B.C. 356, but not by Apollodorus, though it was probably *written* by the same orator as most, if not all of the above-mentioned speeches, and possibly by Apollodorus himself.

Considering all the calumnies raked up by Aeschines against his great rival in the two orations *de falsa legatione* and *contra*

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[1] Aeschines, *de falsa legatione* § 165 *τὸν δ' ἀγαθὸν σύμβουλον τί χρὴ ποιεῖν; οὐ τῇ πόλει πρὸς τὸ παρὸν τὰ βέλτιστα συμβουλεύειν; τὸν δὲ πονηρὸν κατήγορον τί χρὴ λέγειν; οὐ τοὺς καιροὺς ἀποκρυπτόμενον τῆς πράξεως κατηγορεῖν; τὸν δὲ ἐκ φύσεως προδότην πῶς χρὴ θεωρεῖν; ἆρά γε ὡς σὺ τοῖς ἐντυγχάνουσι καὶ πιστεύσασι κέχρησαι, λόγους εἰς δικαστήρια γράφοντα μισθοῦ τούτους ἐκφέρειν τοῖς ἀντιδίκοις; ἔγραψας λόγον Φορμίωνι τῷ τραπεζίτῃ χρήματα λαβών· τοῦτον ἐξήνεγκας Ἀπολλοδώρῳ τῷ περὶ τοῦ σώματος κρίναντι Φορμίωνα.* Id. *contra Ctesiphontem* § 173 *περὶ δὲ τὴν καθ' ἡμέραν δίαιταν τίς ἐστιν; ἐκ τριηράρχου λογογράφος ἀνεφάνη, τὰ πατρῷά καταγελάστως προέμενος· ἄπιστος δὲ καὶ περὶ ταῦτα δόξας εἶναι καὶ τοὺς λόγους ἐκφέρων τοῖς ἀντιδίκοις ἀνεπήδησεν ἐπὶ τὸ βῆμα.*

[2] A. Schaefer, u. s., III 2, p. 178, and Rehdantz there referred to.

Ctesiphontem, we venture to think that, if he had had any ground whatever for asserting that Demosthenes actually *wrote* a speech for Apollodorus, a speech virtually directed against Phormion, though nominally against one of his witnesses only, he would certainly have seized his opportunity and made the very most of so damaging a fact. But he says no such thing; and even Deinarchus, another strong opponent of Demosthenes, makes no such charge against him, though he has an opening for so doing in a passage in which he refers to the orator's 'delivering' a speech for Phormion[1].

Later writers, however, though less likely to be familiar with the facts, are bolder in their denunciations; in Plutarch's life of Demosthenes, we read that the orator 'is said to have written for Apollodorus his speeches against Phormion and Stephanus, for which he justly fell into disrepute, as he also wrote a speech for Phormion in his lawsuit against Apollodorus.' He adds, with a reminiscence perhaps of the trade of the orator's father, 'it was as bad as selling swords to both sides from the same manufactory'[2].

The insertion of the speeches against Stephanus among the works of Demosthenes may perhaps be accounted for by the conjecture that Callimachus, who, as head of the Alexandrine library, undertook the prodigious task of settling the canon of the Attic Orators[1], may have been misled either by the passage of Aeschines above quoted, or by the partial resemblance of the first speech to the style of the orator, into supposing that Demosthenes himself was the writer; or again may have included them among his orations as incidentally illustrative of his genuine works. That there was once a time when Apollodorus himself was regarded as the writer of the orations spoken by him which have been handed down to us among the works of Demosthenes, may perhaps be fairly concluded from a *scholium* on the passage of Aeschines above referred to, noting 'from this it is clear that the speeches referring to the estate of Apollodorus are *not* written by him, but by Demosthenes'[2]. Thus, Plutarch's story of the duplicity of Demosthenes, which with slight variations is repeated by still later writers[3], may have originated in a misunderstanding of the language of his enemy's accusation[4]. The phraseology used by one of them in particular (Zosimus by name, a grammarian who, if we credit the conjecture attributing to him part of the *scholia* on Aeschines, may have actually written the *scholium* in question) shows how easily, even before his time, Callimachus and Plutarch may have been misled by a careless expansion of the language of the orator's rival—language which we have little hesitation in regarding as the original source of the subsequent tradition[1].

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[1] Deinarchus *contra Demosth.* § 111 p. 108 *εὑρήσετε...τοῦτον ἀντὶ λογογράφου καὶ μισθοῦ τὰς δίκας λέγοντος ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἑτέρων πολλῶν πλουσιώτατον ὄντα τῶν ἐν τῇ πόλει.* A recent editor of Deinarchus, Dr F. Blass, writes to me suggesting that the passage is interpolated,—a suggestion which he has recorded on p. vii of his edition. Deinarchus, he conjectures, wrote only *καὶ μισθοῦ τὰς δίκας λέγοντος*; had he wanted to enter into detail, he must have added 'Phormion the banker' and 'Ctesippus the son of Chabrias,' because these cases were by that time probably forgotten. The bare addition *ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἑτέρων πολλῶν* is, he says, exactly what a grammarian would insert to remind his pupils of the speeches they had read in the course of their studies.

[2] Plutarch, *Dem.* chap. 15 *λέγεται δὲ καὶ τὸν κατὰ Τιμοθέου τοῦ στρατηγοῦ λόγον, ᾧ χρησάμενος Ἀπολλόδωρος εἷλε τὸν ἄνδρα τοῦ ὀφλήματος, Δημοσθένης γράψαι τῷ Ἀπολλοδώρῳ, καθάπερ καὶ τοὺς πρὸς Φορμίωνα καὶ Στέφανον, ἐφ' οἷς εἰκότως ἠδόξησε. καὶ γὰρ ὁ Φορμίων ἠγωνίζετο λόγῳ Δημοσθένους πρὸς τὸν Ἀπολλόδωρον, ἀτεχνῶς καθάπερ ἐξ ἑνὸς μαχαιροπωλίου τὰ κατ' ἀλλήλων ἐγχειρίδια πωλοῦντος αὐτοῦ τοῖς ἀντιδίκοις.* (Cf. chap. 4 *Δημοσθένης ὁ πατὴρ... ἐπεκαλεῖτο μαχαιροποιός.*) *Comp. Dem. et Cic.* c. 3 *χρηματίσασθαι ἀπὸ τοῦ λόγου Δημοσθένης ἐπιψόγως λέγεται, λογογραφῶν κρύφα τοῖς περὶ Φορμίωνα καὶ Ἀπολλόδωρον ἀντιδίκοις.*

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[1] Rehdantz ap. A. Schaefer, u. s., p. 317—322. The earliest reference to the Ten as a distinct group is to be found in the title of a lost work by Caecilius of Calacte,—χαρακτῆρες τῶν ι′ ῥητόρων. But the form of the title implies that it was a group already recognised (Introd. to Cicero's *Orator*, p. xii).

[2] Aesch. ed. Schultz, p. 311 ἐκ τούτου δῆλον ὅτι καὶ οἱ περὶ τὴν οἰκίαν (οὐσίαν *coniecit A. Schaefer*) Ἀπολλοδώρου λόγοι οὐκ Ἀπολλοδώρου ἀλλὰ Δημοσθένους. The rhetorician Tiberius, περὶ σχημάτων c. 14 (referred to by A. Schaefer), quotes from Or. 45 § 83, and introduces his citation with the name not of Demosthenes but of Apollodorus, καὶ πάλιν Ἀπολλόδωρος 'ἐγὼ γὰρ—οὐκ οἶδα,' though he professes in c. 1 to confine himself to ὅσα παρὰ Δημοσθένει κατενοήσαμεν. In c. 31 he begins an extract from Or. 36 § 52 with the words, ἐν τῷ ὑπὲρ Φορμίωνος πρὸς τὸν Ἀπολλόδωρον. Weil, *les Harangues de Dém.* p. xi, demurs to any weight being assigned to the quotation from Tiberius.

[3] Anonym. p. 155, Suidas *Dem.* c. 3, referred to by Lortzing, *Apoll.* p. 23.

[4] The taunt about 'selling swords to both sides' is not borrowed from the passage in Aeschines. L. Schmidt, *Paed. Archiv* xxv (1) 58, in a review of this volume, points out, however, that it may have been due in the first instance to some other personal opponent of Demosthenes (Weil, u. s.).

The argument from *internal evidence* is more intricate, and the style of all the orations delivered by Apollodorus has been discussed with much minuteness by several modern critics. Without entering, however, into undue detail on those speeches which are not included in the present volume, we may briefly state certain peculiarities of diction to which Arnold Schaefer, who, in his admirable work on the *Life and Times of Demosthenes*, was the first to treat the subject systematically, has specially drawn attention, as running through all the speeches delivered by Apollodorus, and distinguishing them from the genuine writings of Demosthenes[2].

We find, then, a feebleness of expression showing itself in repetitions of the same word within short intervals from one another[3]; this clumsiness is most noticeable in the case of the pronouns *οὗτος* and *αὐτός*[4]. Again, clause after clause begins with the same relative pronoun, or the same hypothetical particle[5]. Such carelessness of expression is naturally attended by looseness of rhythm; thus, tested by the frequency of *hiatus*, the speeches delivered by Apollodorus are inferior in composition to the certainly genuine speeches of Demosthenes, though an exception must be made in favour of the first speech against Stephanus[1]. Even this speech supplies instances of unrhythmical construction[2], and examples of anacoluthon or bad writing; and in particular an awkward combination of participles may be noticed in the first as well as in the second oration[3].

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[1] Zosimus *vit. Dem.* p. 149 R., *λογογραφεῖν ἀρξάμενος καὶ εἰς τὰ ἰδιωτικὰ καὶ εἰς τὰ δημόσια καὶ πολλοὺς ἐκδοὺς λόγους πρὸς ἑαυτοὺς ἤλω ἀμφοτέροις λόγους ἐκδοὺς κατ' ἀλλήλων.* He lived in the time of the Emperor Anastasius, A.D. 491—518.

[2] A. Schaefer *Dem. u. s. Zeit*, III 2, 184—199, *Der Verfasser der von Apollodor gehaltenen Reden*, 1858. Since then, the subject has been elaborately discussed by F. Lortzing (1863), J. Sigg (1873) and G. Huettner (1895). For the full titles of their treatises, see p. xiv. See also Blass, *die Att. Beredsamkeit*, III i 412—414^1, 470—472^2.

[3] Or. 45 § 4 *γιγνομένου...γίγνονται...ἐγίγνοντο*, *ib.* § 63 *συνέβαινεν ... βαίνων*. — Or. 46 § 28 *διαθηκῶν...διαθηκῶν...διατιθέμενοι ... διατίθενται.* Similarly in § 2 *διατιθεμένῳ τῷ πατρὶ* is thrice repeated and *ὁ πατὴρ διέθετο* twice. For other repetitions see §§ 3, 5, 8, 25.

[4] Or. 45 § 64 *τούτῳ...τοῦτον τούτου...τούτου*, § 86 *ἑαυτὸν... τούτου ... ἑαυτὸν ... ταῦθ'...τούτου*, and similarly § 34, § 83.—Or. 46 § 21 *οὗτος...αὐτὸν...αὐτοῦ τούτου...αὐτὰς...ταῦτ'*, and § 6. But cf. Or. 36 §§ 12, 18, 20 and 42.

[5] Or. 45 § 49 *οὓς...οὓς*, § 81 *εἰ...εἰ...εἶτα...εἰ.* Or. 46 § 23 *εἴπερ...εἴτε...εἴτε...εἰ μὲν ... εἰ δὲ ...εἴπερ. τοίνυν* though common in the genuine orations occurs 14 times at least in the 29 sections of Or. 46. '*Non negari potest vividioribus transgrediendi figuris, quibus D. excellit, carere nostras orationes*' Lortzing p. 33.

On passing to the question of the degree of mastery over the subject-matter and the general argument which is displayed in the various speeches, a distinction may be drawn between the earlier speeches on the one hand (e.g. those against Polycles and Timotheus) where the narrative is monotonous and tedious, and the conclusion somewhat lame and feeble; and the two speeches against Stephanus. The latter shew signs of an improvement which Schaefer ascribes to the prolonged experience in litigation which the speaker had enjoyed since his earlier efforts. The general style of all these orations, differing as it does from that of Demosthenes, and bearing marks of a kind of consistency of its own, points (so Schaefer suggests) to one person as the writer of them all, and that person in all probability Apollodorus himself. He often appeared before the law-courts not only in private suits on his own account, but also in public causes; and, when he was a member of the Council, he made important proposals, and brought them before the general assembly of the people. Even assuming that he resorted to others for assistance in his private lawsuits, yet, as soon as he appeared in a more public character, he would find it necessary to speak for himself, and without some oratorical ability he could hardly have undertaken so many public causes. In the second speech against Stephanus we find him pluming himself on his cleverness[4]; and in that against Neaera he is called upon to address the court on behalf of a younger and less experienced speaker[5]. Apollodorus obviously laid himself out for attempting to play a prominent part at Athens; in the *pro Phormione* the jury are specially warned against his loud and impudent self-assertion[1], and elsewhere we even find him apologising for his loudness of voice (as well as his hurried gait and ill-favoured countenance), as his misfortune and not his fault[2].

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[1] Benseler, *de hiatu* p. 147, *auctor alterius orationis* (Or. 45) *sermonem ita conformare solebat, ut vocalium concursus evitaretur et auctor alterius* (Or. 46) *ita ut hiatus non evitaretur.*

[2] The passage referred to is in § 68 *ἐγὼ γὰρ — προσελθεῖν πρῶτον*, but the objection is perhaps hypercritical. For anacoluthon, cf. Or. 45 § 3; for bad writing, Or. 46 § 17.

[3] Or. 45 § 83, Or. 46 § 13 (Lortzing p. 88, 89).

[4] § 17 *οὐδὲ ἐδόκουν ἐμὲ οὕτω δεινὸν ἔσεσθαι ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.*

[5] Or. 59 § 14 *νέον ὄντα καὶ ἀπείρως ἔχοντα τοῦ λέγειν*, while Apollodorus *πρεσβύτερός ἐστι… καὶ ἐμπειροτέρως ἔχει τῶν νόμων.*

Such then is the general drift of the arguments, to which a brief sketch can only do imperfect justice, which led Schaefer to the conclusion that the speeches against Callippus, Nicostratus, Timotheus, Polycles, Euergus and Mnesibulus; both of those in prosecution of Stephanus; and lastly, that in accusation of Neaera,—speeches delivered in the above chronological order between the years B.C. 369 and 343,—were all composed by one person, who had a distinctive style of his own, and that person probably Apollodorus himself, with whose transactions no less than seven of these speeches are concerned.

The above conclusion is however open to criticism on the ground that it gives no adequate account of the incomparable superiority of the first speech against Stephanus, not only to the others delivered by Apollodorus, but in particular to the second speech in the very same trial. It is marked by a closeness of argument, and a forcibleness of invective, worthy of a far abler writer than the composer of the other speeches. It seems futile to explain this superiority by ascribing it to a gradual improvement in the speaker's rhetorical ability brought about by time and experience[3], when the second speech is so meagre and lifeless, and when the last of the series, namely that *in Neaeram*, instead of showing any advance as compared with the first speech against Stephanus is certainly inferior to it, and is characterized by a diffuseness and laxity of style, and by other faults besides. And again, the explanation that the second speech is only a *δευτερολογία*, and therefore inferior to the first, is hardly adequate. Hence, while we would ascribe the second to Apollodorus himself, and find in its constant quotations from the Athenian code of law a characteristic touch, reminding us of his legal learning as attested in the oration *in Neaeram*[1], we are driven to the conclusion that in the first he had recourse to the assistance of an abler rhetorician than himself. There is scarcely sufficient proof that that rhetorician was Demosthenes. It must however be candidly admitted that of all the speeches delivered by Apollodorus, the one that on personal grounds is least likely to have been written by the composer of the oration for Apollodorus' opponent Phormion, is less far removed from the style of Demosthenes than any of the remainder, though again and again we have words never used by the orator himself in his undisputed writings[2]. In one passage indeed (§ 77) we have a close parallel with the *Pantaenetus* (§ 55)[3], which seems to point to a common authorship, and if the latter speech is rightly assigned to the year 346 or thereabout, in other words, is placed *after* the speeches now under consideration, we can hardly explain the parallel except by the hypothesis of a common source, or else by the less probable assumption that Demosthenes, who was almost certainly the writer of the *Pantaenetus*, having heard or read the first speech against Stephanus, a speech directed virtually against his own client Phormion, borrowed from the phraseology of the latter oration, with which he was thus familiar. The Attic orator, Hyperides, is known to have written one speech at least against Pasicles[4], who, though a brother of Apollodorus, took the side of his opponent Phormion, and a conjecture has been half hazarded that it was for Apollodorus that those speeches were composed[1]; but there is no adequate reason for assigning the first speech against Stephanus to that orator, and a comparison with his four extant orations has led me to notice only one important coincidence of expression[2].

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[1] Or. 36 § 61 *κραυγὴ καὶ ἀναίδεια.*

[2] Or. 45 § 77. A. Schaefer understands the passage differently; after referring to the loudness of voice attributed to Apoll. in Or. 36, he continues: 'Wenn dagegen Apollodor erklärt: *Ich rechne mich selber, was Gesichtsbildung, raschen Gang und laute Rede betrifft, nicht unter die von der Natur glücklich begabten...*, so will er damit nur ein selbstgefälliges Prunken und Stolzieren von sich ablehnen, ohne andeuten zu wollen, er sei missgestalt träges Schrittes und schwachstimmig.' This misses the sense; the words when taken correctly as in the text, confirm the quotation from Or. 36, and do not appear even remotely to contradict it. Cf. Lysias, Or. 16 §§ 18, 19.

[3] A. Schaefer, u. s., p. 191. Prof. Schaefer, in a kind communication received since I wrote the above, endeavours to account for the greater polish of style shown in Or. 45 by the fact that Apollodorus had the strongest motives for doing his very best in his opening speech.

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[1] § 14 *ἐμπειροτέρως ἔχει τῶν νόμων*, and § 15 *ὑπὲρ τῶν θεῶν καὶ τῶν νόμων καὶ τοῦ δικαίου καὶ ὑμῶν αὐτῶν*, compared with Or. 46 § 29 *ὑπὲρ ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.*

[2] § 14 *παροξυσμός*, § 19 *παραπέτασμα*, § 70 *ἀοίκητος* (in sense 'houseless'), § 85 *ἐπίχαρτος*, § 63 and § 65 *ὑποπίπτειν τινί* (also in Or. 59 Neaer. § 43).

[3] Or. 37 §§ 52, 55 quoted in note on Or. 45 § 77. The *Pantaenetus* was probably the later speech of the two. Cf. also § 56 with Timocr. 106, Mid. 200, Aristocr. 89.

[4] *κατὰ Πασικλέους* and *πρὸς Πασικλέα περὶ ἀντιδόσεως*, Fragm. 134—137, p. 117—8 ed. Blass, 1894.

On the whole, then, we may conclude (1) that the second speech was not only delivered by Apollodorus, but probably composed by him; (2) that the first was written for him, possibly not by Demosthenes, but by some rhetorician unknown to us, whose assistance he was led to secure either by the pressure of his other engagements, or by a consciousness of the difficulty of the task that was before him, and a mistrust of his own unaided ability to compose more than the legal rejoinder to the defendant's reply.

Those who attribute the speeches against Stephanus, or at least the first of them, to the authorship of Demosthenes, are bound to supply some reasonable motive for his changing sides after taking the part of Phormion against Apollodorus. If such a desertion to the enemy's camp was due to his discovery that the documents relied on in the first trial were forgeries, and that the deponents called to prove them were guilty of false witness, we cannot but think that Demosthenes, if he had been the writer of a speech immediately arising out of the former trial, would have been prompted to stronger expressions of indignation against the fraud practised on the jury on the previous occasion.

While we dismiss as irrelevant any attempt to try the alleged duplicity of Demosthenes by the standard of the professional etiquette of the English bar, and refrain from entangling our discussion with parallels suggested by questions of modern forensic casuistry, we may at any rate remark that, though we have no sufficient warrant for assuming that the orator was above pecuniary considerations, a certain sense of honour would probably have kept him from accepting a fee to write down the very side which he had but lately written up; and we may fairly conclude that such conduct was held dishonourable from the fact that even for divulging Phormion's case to his opponent, Demosthenes is, whether truly or falsely, charged by Aeschines with playing a traitor's part.

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[1] Hornbostel, *Apoll.* p. 35.

[2] Or. 45 § 74 *ἀνεκδότους ἔνδον γηράσκειν*, compared with Hyperides III 28, 4 *ἀνέκδοτον ἔνδον καταγηράσκειν* and III 27, 22 *ἄγαμον ἔνδον καταγηράσκειν*.

Again, it is urged that the first speech against Stephanus was written for a different trial to that on behalf of Phormion. This can hardly be regarded as an extenuating fact in favour of Demosthenes as the writer of the leading speech in both trials, since the second cause arose immediately out of the first, and there can be no question about the irreconcileable difference between the facts of the case as stated in the two orations, and the terms used in the one and the other in describing the character of Phormion. Even apart from motives of honour, the lower ground of expediency would presumably have sufficed to prevent Demosthenes from writing to defame the character of one who, by his opponent himself, was admitted to be a wealthy and prosperous man of business, and from supporting by preference the failing fortunes of an impoverished pettifogger.

Such, then, at the very strongest, are the principal arguments that may be adduced against the genuineness of the two speeches against Stephanus. In conclusion, it is only fair to submit the only hypothesis on which it is not impossible that Demosthenes may after all be the real author of, at any rate, the first oration.

We have already seen that it is highly probable that the speech against Phormion belongs to the latter part of the year B.C. 351 (p. xxix) and that the speeches against Stephanus may fairly be placed in the year B.C. 350[1]. It was a year in which the efforts of Athens to recover Euboea and to protect Olynthus placed her in a position of grave financial embarrassment. To meet this, Apollodorus, as a member of the senate, moved a decree that it should be submitted to the vote of the public assembly whether the surplus of the revenue should be paid to the Theoric fund for religious festivals, or applied to the expenses of the war. The proposal was approved by the senate and accepted by the public assembly; and the latter passed a decree appropriating the surplus to military purposes. Hereupon one Stephanus, who is not to be identified with the defendant in the speeches before us, impeached Apollodorus on the ground of his having brought forward an illegal decree; and he obtained a verdict, which led to the fine of one talent being inflicted on Apollodorus[2]. In this impeachment,

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[1] The *archon eponymus* of that year [Ol. 107, 3] was one Apollodorus, probably *not* the son of Pasion.

[2] Or. 59 §§ 3—8, esp. § 4 διαχειροτονῆσαι τὸν δῆμον εἴτε δοκεῖ τὰ περιόντα χρήματα τῆς διοικήσεως στρατιωτικὰ εἶναι εἴτε θεωρικά; Grote, *H. G.*, chap. 88; Curtius, *H. G.*, vol. v, p. 269 (Eng. Transl.); Hornbostel, *Apoll.* p. 39, 40; A. Schaefer,

Stephanus was probably the tool of Eubulus and the peace-party, and although there is no proof that Apollodorus acted at the suggestion of Demosthenes and the opposite party, the proposal of Apollodorus would doubtless meet with the orator's approval, as is clear from the financial policy cautiously propounded by the latter in the Olynthiac orations[1], and, when it was too late, carried to a successful issue twelve years afterwards in the autumn of 339, only one year before the catastrophe of Chaeroneia.

It may therefore be questioned whether political motives may not have induced Demosthenes to throw Phormion overboard and to support Apollodorus by writing the first speech against Stephanus. On this hypothesis it may be presumed that Apollodorus, having lost his lawsuit against Phormion owing to the powerful advocacy of Demosthenes, and being almost crushed by the consequences of his defeat, resorted to Demosthenes in the hope of recovering part at least of his resources, and proposed to run the risk of bringing forward his motion on the Theoric fund, on condition that the orator wrote him a speech against the obnoxious witness Stephanus.

My friend Dr F. Blass (the author of several important works on Greek Oratory) has favoured me with a suggestive letter[2], supporting this hypothesis and also showing that the style of the first speech against Stephanus, apart from its general resemblance to that of Demosthenes[3], coincides with it in a hitherto unnoticed peculiarity, that under certain limitations the orator generally avoids the juxtaposition of more than two short syllables, the exceptions being for the most part cases where the three syllables fall within the compass of a single word[4]. To examine the minute criterion here proposed is beyond my present purpose. It is sufficient to state (as my learned correspondent would obviously acknowledge), that while its absence may suggest the spuriousness

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u. s., III 2, p. 180 and (for the chronology here followed) *ib.* p. 330. Some (e.g. Weil, *Harangues de Dém.* p. 163) would place the Euboean expedition in B.C. 348, and Blass would therefore place in that year the motion of Apollodorus and the delivery of Or. 45.

[1] Olynth. III §§ 10—13.

[2] 12 Sept. 1875; see also his *Att. Ber.* III 32, 412—4 (published in 1877), = 470—2, ed. 1893.

[3] Sigg, *Apoll.* p. 415—432.

[4] See p. 7 of his dissertation on the Letters ascribed to Demosthenes (Oct. 1875); also *Att. Ber.* III 99—104, = 105—112, ed. 1893.

of any given oration, its presence does not prove its genuineness. It may also be admitted that the testimony of Harpocration is in favour of the Demosthenic authorship of the first speech[1] (though the value of that testimony is impaired by his attributing the second speech[2] to the same author); and that the parallelism of § 77 to a passage in the *Pantaenetus* already noticed is on the whole more easily explained by ascribing the first speech to Demosthenes than by any other hypothesis[3].

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[1] See quotations in notes on Or. 45 §§ 1, 15, 63, 66, 74, 80, 84.

[2] Cf. Or. 46 §§ 7, 11, 20.

[3] Since the above discussion was first published, it has been justly observed that the genuineness of the first speech against Stephanus 'could hardly have been doubted but for the desire to vindicate the orator's morality....The morality of Demosthenes' conduct may in this case perhaps be dubious, but it is not so palpably bad as has been supposed....But...he attacks his late client's character with a coarse violence and a wantonness which goes beyond the conventional invective of the law-courts. He writes for Apollodorus as Apollodorus would have written himself, not sparing even the speaker's own mother. And it is precisely here rather than in the change of sides that we feel the real discredit lies' (S. H. Butcher, *Demosthenes*, 1881, p. 136). See also G. Huettner, *Demosthenis oratio in Stephanum prior num vera sit inquiritur*, 1895, pp. 59—65, where a careful examination of the language of the first speech results in its being accepted as the work of Demosthenes.

Mr Kirk, *Demosthenic Style*, p. 41—2, has the following remarks on the two speeches:—'The first is rich in all the figures and devices which can enliven argument and convey feeling, while the second is merely an array of arguments; and this inversion shows a weakness alike in logic and in art wholly incompatible with any theory of Demosthenean authorship for Or. 46.'

INTRODUCTION TO

Or. LIII.

ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ ΑΡΕΘΟΥΣΙΟΥ.

In this speech Apollodorus, the litigious son of Pasion, appears in support of a lawsuit arising out of an information laid against one Arethusius, for refusing to pay a fine due to the public chest. According to Athenian law, if a state-debtor concealed his effects, any citizen who discovered the fact was at liberty to draw up, and lay before the proper magistrate, a written statement containing an inventory or specification of the goods in question. The schedule thus drawn up was called an *ἀπογραφή*, and this name was also given to the legal process in support of it[1]. The informant, in the event of his making good his case, was entitled to the reward of three-fourths of the valuation (§ 2); if he failed, he was fined a thousand drachmae, and suffered a partial disfranchisement which prevented his appearing again as a prosecutor in a public cause (§ 1).

In the present instance, Apollodorus has handed in a specification in which two slaves are stated to be the property of Arethusius, and therefore liable to confiscation as a partial payment of his debt to the public treasury.

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[1] Meier and Schömann, p. 302 Lipsius; Hermann, *Public Antiquities*, § 136, 13 (p. 553 n. 2, ed. Thumser).

Hereupon, a brother of Arethusius, named Nicostratus, puts in a claim to the slaves, and in the speech before us Apollodorus has to show that the claim is false and that the slaves are really the property of Arethusius. To prove this he calls evidence in §§ 19—21, and this is the only portion of the speech which is really relevant to the issue before the court, while the greater part of it, up to this point, is devoted to a narrative of the relations between Apollodorus and the two brothers. The object of this is to show that the former had been most ungratefully treated by the latter, especially by Nicostratus, and that he was therefore, according to the Athenian notion, fully justified in revenging himself for his private wrongs by supporting a public information against his opponent. To prove the purity of his motives and to ingratiate himself with the court, he waives at the very outset his claim to the reward to which the informant in such cases is legally entitled.

Among the speeches of Lysias we have three concerned with causes relating to claims of money withheld from the state (*ἀπογραφαί*): the speech 'for the soldier' (Or. 9), that 'on the property of Aristophanes' (19), and that 'against Philocrates' (29). The first two are for the defence; the third, for the prosecution. But in all three, the promoter of the *ἀπογραφή* is represented as the prosecutor; in the present case, although the promoter of the *ἀπογραφή* is Apollodorus, we should probably consider him as the defendant and Nicostratus as the plaintiff. Apollodorus was apparently in possession of the effects disputed; his opponent Nicostratus puts in a claim against him, and the speech before us is therefore a speech for the defence[1]. Owing to the general character of its contents, it is usually classed among the

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[1] Caillemer, s.v. *Apographè*, in Daremberg and Saglio's *Dict.*

Private Orations, and it may be conveniently studied in conjunction with them. But it cannot be too clearly stated, that, in so far as it arises directly out of a refusal to pay a fine to the public chest, it is essentially a speech delivered in a public cause.

Apollodorus states that Nicostratus was his neighbour in the country and formerly his trusted friend, that they had done kindly services for one another, and that in particular he had lent to Nicostratus, free of interest, a sum which he was himself compelled to raise on the security of part of his property. So far from being grateful, the borrower at once laid a plot to escape payment of his debt, made common cause with the opponents of Apollodorus, and induced a third party (one Lycidas) to bring against him a suit demanding that certain property should be produced in court. Among those who were entered as witnesses to the delivery of the summons requiring him to produce the property, was Arethusius, a brother of Nicostratus, as above mentioned. The summons, it is alleged, was never served, consequently Apollodorus did not appear, and judgment went against him by default. Subsequently, Apollodorus prosecuted Arethusius for fraudulent citation (ψευδοκλητείας γραφή), which was regarded by Athenian law as a *criminal* offence, while on the contrary a witness in the cause itself as distinguished from one who attested a summons, was, if he gave false evidence, only liable to a *civil* action[1]. Before the case came on, Arethusius committed several acts of outrage against Apollodorus, laid waste his orchard and violently assaulted him, and when the case for fraudulent citation, and apparently for the other criminal acts, was brought before the jury, Apollodorus, under these aggravating circumstances, obtained a verdict against Arethusius with the greatest ease. Indeed, it was only owing to the entreaties of his brothers, with the acquiescence of the prosecutor, who was unwilling to face the odium which would ensue, that Arethusius escaped the penalty of death[1], and had inflicted on him a fine of one talent, for the payment of which his brothers became jointly responsible. Arethusius pleaded poverty and refused to pay; thereupon Apollodorus took the legal steps required (as above described) for the confiscation of his property, and in his specification claimed for the state, among other effects, two slaves as a partial security for the payment of the fine. Nicostratus resists this claim as regards the slaves in question and claims them as his own property, though even in that case, as the speaker points out, they should be confiscated, since Nicostratus had guaranteed the payment of the fine and had failed to make good his guarantee. In §§ 22—25 Apollodorus describes the unsuccessful attempt of his opponents to entrap him into accepting a legal challenge, which would have committed him to a virtual admission that the slaves were private property; and in §§ 19—21 calls evidence to prove, that the person recognised as the responsible owner of the slaves was Arethusius, and not the present claimant Nicostratus.

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[1] Harpocration, quoted on § 17 *ad fin.*, inaccurately uses the (possibly generic) term δίκη, instead of γραφή, with reference to ψευδοκλητεία.

Passing from the general contents of the speech as above sketched, we may turn to a brief consideration of its literary style and special peculiarities. We are at once struck by the disproportionate space of twenty sections devoted to purely preliminary details, as contrasted with the short compass within which lies the real gist of the case. The long account of the reasons prompting the speaker to seek for revenge, is unlike the manner of Demosthenes, and a certain feebleness and diffuseness may be noted in the narrative immediately following the exordium. Among minor details may be observed a tendency to add unnecessary and superfluous clauses, defining more clearly what has just gone before[1]. Again, we find needless repetitions within the limits of a single sentence[2]; further, we have a certain clumsiness in the repetition of pronouns such as *οὗτος* and *αὐτός*[3]; we observe a disproportionate number of harsh constructions[4], and it is curious to notice that a phrase occurring in this speech, which is unexampled in the undisputed writings of Demosthenes, finds its nearest parallels in speeches delivered like the present by Apollodorus[5]. We may also trace a general resemblance to the style of that against Neaera, the greater part of which was delivered by the same person, a speech which it is impossible to attribute to the authorship of Demosthenes[6]; and, lastly, there is a certain want of warmth in the peroration, unlike the vigorous style of the great orator himself.

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[1] Boeckh, *Public Economy*, trans. Lamb, p. 496 note 2, while noticing that other criminal acts are involved, considers that the present passage proves that the punishment of death might be inflicted in a case of *ψευδοκλητεία*, but this seems scarcely probable.

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[1] e.g. not content with *'Αρεθουσίου, οὗπερ ἐγέγραπτο εἶναι* in § 2, the writer in § 10 has the words, *'Αρεθούσιος οὗ τάνδράποδ' ἐστὶ ταῦτα ἃ νῦν ἀπογέγραπται*, again in § 14 *'Αρεθούσιος οὗπέρ ἐστι τάνδράποδα ταῦτα*, and similarly in § 19. The words in § 7 *ἐδεῖτό μου βοηθῆσαι αὐτῷ ὥσπερ καὶ ἐν τῷ ἔμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς φίλος*, are partially repeated in § 8 and § 12. Again in § 24 *τὰς βασάνους* is unnecessarily followed by the closer definition, *ὅτι εἴποιεν οἱ ἄνθρωποι*. (Cf. A. Schaefer, u. s., p. 187—190; Lortzing, *Apoll.* p. 30 etc.; and see especially Blass, *Att. Ber.* III 462^1, 520^2).

[2] e.g. § 4 *οἰκείως διεκείμεθα... οἰκείως διεκείμην.*

[3] § 6 *ad init. αὐτὸν...τούτου... αὐτῷ...αὐτός.* Also, *ad fin. τούτου ...τούτου...αὐτὸς...τοῦτον τούτου ...αὐτῷ...αὐτόν.* Cf. §§ 4 and 8.

[4] See §§ 11, 12, 24, 29.

[5] § 15 *ἐβάδιζον ἐπὶ τὸν κλητῆρα τὸν ὁμολογοῦντα κεκλητευκέναι ...τῆς ψευδοκλητείας* compared with Or. 49 § 56 *μὴ... ἐπὶ τόνδε κακοτεχνιῶν ἔλθοιμι*; and esp. Or. 52 § 32 *ἐπὶ τὸν Κηφισιάδην βαδίζειν τὸν ὁμολογοῦντα κεκομίσθαι καὶ ἔχειν τὸ ἀργύριον.*

[6] Or. 59 (*κατὰ Νεαίρας*) is condemned by ancient critics

On the whole, without entering into minuter detail, we may consider that the internal evidence is such as to throw grave doubts on this speech being the genuine work of Demosthenes, and we are not surprised to find its genuineness called in question by the lexicographer of the Attic Orators, Harpocration[1], though Plutarch refers it without suspicion to the authorship of Demosthenes, and fancifully contrasts the literary fame of the orator with the military reputation of the general of that name in the Peloponnesian War[2].

We have now to consider the data for arriving at the time when the speech was delivered. In § 9, Apollodorus describes himself as short of money, owing to differences between himself and Phormion, who was keeping him out of the property left him by his father Pasion, who, it will be remembered, died in B.C. 370. Again, in § 14 we are told, that at the time of the events there related, Apollodorus had not yet brought to a preliminary hearing the suits he had instituted against his relatives (Phormion and others). The suit against Phormion respecting the banking capital (Or. 36) was delayed until about B.C. 350. But a much more direct indication is given by a reference

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(*ὕπτιον ὄντα καὶ πολλαχῇ τῆς τοῦ ῥήτορος δυνάμεως ἐνδεέστερον Arg.*). Among modern critics, Reiske is its sole supporter. Among the minor points of resemblance, apart from the general style, may be quoted Or. 59 § 16 *ἃ μὲν ἠδικημένος, ὦ ἄνδρες Ἀθηναῖοι, ὑπὸ Στεφάνου... ὡς δ' ἐστὶ...τοῦτο ὑμῖν βούλομαι σαφῶς ἐπιδεῖξαι* compared with Or. 53 (Nicostr.) § 19 *ἃ μὲν τοίνυν ἀδικούμενος, ὦ ἄνδρες δικασταί, ὑπ' αὐτῶν...ὡς δ' ἔστιν... ἐπιδείξω ὑμῖν* (noticed by Rehdantz, *vit. Iphicr.* p. 194). Add Or. 59 § 14. Also the tedious references to the plea of revenge, Or. 59 § 1 *ὥστ' οὐχ ὑπάρχων ἀλλὰ τιμωρούμενος κ.τ.λ.* and cf. § 18 *ἐκ μικρῶν παιδίων* with Or. 53 § 19 *ἐκ μικροῦ παιδαρίου*, while *παιδάριον μικρόν*, though common enough in itself, also happens to occur in Or. 59 § 50.

[1] *εἰ γνήσιος* s.v. *ἀπογραφή*, quoted in note on § 1, p. 134.

[2] Plut. *de gloria Atheniensium*, chap. 8.

in § 5, to a trierarchy involving the speaker's absence from Athens; and it was shortly after his return that the events described in the context occurred. He had to sail round the south of the Peloponnesus, and after touching there to take certain ambassadors to Sicily. It seems probable that we should identify this trierarchy with that mentioned in Or. 45 § 3, which belongs either to B.C. 369 or B.C. 368[1]. The latter date is more probable, not only for the reason given in the note on that passage, but also because at this period no one was required to be trierarch oftener than once in three years, and we know that Apollodorus was so employed in B.C. 362; hence he may have been trierarch in B.C. 365 and B.C. 368, but probably not in B.C. 369[1]. Thus if we allow a fair interval of time for the events mentioned in the speech subsequent to the trierarchy, we may fix on B.C. 366 as the probable date of its delivery. Now, if Demosthenes was born in B.C. 381, he was still a minor in B.C. 366 and too young to have been the writer of the speech; if, as is most probable, his birth was in B.C. 384, he was only just of age when the speech was delivered, and had enough to do in looking after his own affairs, and preparing, under the guidance of Isaeus, to join issue with his guardians, without writing speeches for other people. Consequently, the probable date of the speech, coinciding as it does with the internal evidence and with the doubts of Harpocration, makes it almost impossible to ascribe it to the authorship of Demosthenes.

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[1] On a ψήφισμα respecting the alliance with Dionysius I see Kirchhoff in *Philologus* xii 571, where the writer holds that there were embassies sent to Sicily in 369 and also in 368. Cf. Lortzing, *Apoll.* pp. 3 f., 10; Sigg, *Apoll.* p. 403 f. (Blass, *Att. Ber.* III 460^1, 519^2).

Droysen (*Zeitschrift für d. Alterthumswissenschaft*, 1839 p. 929) places the speech in Ol. 107, 1 = B.C. 352—1, and Böhnecke (*Forschungen*, p. 675) in Ol. 107, 2 = B.C. 351—350. They connect the Sicilian trierarchy of Apollodorus (1) with the despatch sent to Athens in Ol. 106, 3 = B.C. 354—3 by a leading man in Syracuse, Callippus by name; and (2) with a request for assistance on the part of the Messenians, recorded by Pausanias (IV 28 § 2). Arnold Schaefer, however, points out that we have no authority for stating that the Athenians sent any reply to the overtures of Callippus by sending a special embassy to Sicily, and Apollodorus would have been the last man in the world to have anything to do with Callippus, who was his personal enemy (see note on Or. 36 § 53). Besides, Apollodorus would then be in the 40th year of his age, and would have had considerable experience of business, whereas when he undertook this trierarchy, and when he shortly after assisted Nicostratus, he was quite a young man and inexperienced in the ways of the world (§§ 12—13). As was seen by Rehdantz, who places the speech in B.C. 368 (*Jahn's neue Jahrbücher*, LXX 505), we must not refer the allusions in §§ 9 and 14 to the lawsuit of Apollodorus against Phormion which was met by the latter's special plea (Or. 36), but to the threatened litigation of the first few years after his father's death. Now, after the summer of 369 the Athenians, in consequence of help sent by Dionysius I to his allies the Spartans, were engaged in negociations with that tyrant which led to the conclusion of a peace and alliance. With these negociations we may connect the Sicilian trierarchy of Apollodorus. The ambassadors whom he had on board could not confer with the Spartans without landing at Gytheion, as the Peloponnesus was for the most part in arms on the side of the Thebans. (Abridged from A. Schaefer, u.s., p. 145—6.)

But whether written by Demosthenes, or, as is much more probable, by another, most likely by Apollodorus himself, there can be no reasonable doubt that the speech was actually delivered before an Athenian tribunal. As a study of character, the narrative of the relations between the speaker and his opponents is not without an interest of its own; and the moralist may there find a fresh exemplification of the wise saw of Polonius,

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[1] Cf. Sigg, *Apoll.* p. 404, who (with Lortzing) also draws attention to the indication of time in § 4 ἐπειδὴ ἐτελεύτησεν ὁ πατὴρ...χρόνου δὲ προβαίνοντος. But it is fair to remark that the subsequent expression '*whenever* I was abroad, either on public service as trierarch, or on my own account on some other business,' while it is not necessarily inconsistent with a *single* voyage as trierarch, which is all we can assume if we place the period in B.C. 366, is better suited to a date which would allow of more than one absence on public service.

Never a borrower or a lender be,
For loan oft loses both itself and friend.

The speech includes several passages of peculiar intricacy, in which the language of Athenian lawcourts and the vocabulary of Attic horticulture will demand special illustration in the course of the commentary[1]. The knotty points of legal terminology, which may embarrass the beginner, may prove attractive to experts,

qui iuris nodos et legum aenigmata solvunt;

though others perhaps will be better pleased to dwell on the details of the speaker's country-home, and will not be sorry to leave for a while the lawcourts of Athens, for the vineyards and orchards, the olives and roses of Attica.

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[1] notes on §§ 14—16.

INTRODUCTION TO

OR. LIV.

ΚΑΤΑ ΚΟΝΩΝΟΣ ΑΙΚΕΙΑΣ.

THIS is a speech for the plaintiff in an action for assault and battery, which arose as follows. One evening the plaintiff, a young Athenian named Ariston, accompanied by a friend, was taking his usual stroll in the market-place of Athens, when he was attacked by the defendant Conon, and his son Ctesias and four others. One of these last fell upon Ariston's friend and held him fast, while Conon and the rest made an onslaught on Ariston, stripped him of his cloak which they carried off with them, threw him violently into the mud, and assaulted him with such brutality that he was for some time confined to his bed and his life despaired of (§§ 7—12).

Ariston on his recovery had more than one legal course open to him (§§ 1 and 24). Conon had, in the first instance, rendered himself liable to summary arrest for stripping off his cloak, and he was still amenable either to a public indictment for criminal outrage (*ὕβρεως γραφή*) or to a private suit for assault and battery (*αἰκείας δίκη*). To take the former of these last two courses would have proved a task too arduous for so youthful a prosecutor as Ariston, and he accordingly followed the advice of his friends and adopted the safer and less ambitious plan of bringing an action for assault. The case was submitted in this form to a public arbitrator, and as his award, whatever it may have been, was not final, the plaintiff brought his suit before one of the legal tribunals, possibly that known as the Forty, state-officers chosen by lot who went on circuit through the demes of Attica, and under whose cognisance, besides some minor matters, all private lawsuits for assault were placed[1]. Two points were essential to the proof of the case, (1) that the defendant struck the plaintiff who was a free-man, with intent to insult him; and (2) that the defendant struck the first blow and was not acting in self-defence under the provocation of a previous assault.

The plaintiff, after a brief statement of the reasons which led him to prefer bringing a private suit instead of a public indictment against his assailant, and after the usual request for a favourable hearing, gives a graphic account of the origin of the feud between Conon's sons and himself (§§ 3—6); he then passes on to a vivid description of the scene in the market-place and the brutal assault there committed by Conon and one of his sons (§§ 7—9), and calls medical and other evidence to prove the serious nature of that assault and its nearly fatal result (§§ 10—12).

He next anticipates the defence which is likely to be set up by Conon, who, he understands, will make light of his son's misconduct and try to pass it off as a mere freak of youthful pleasantry; he contrasts the flippancy of the proposed defence with the more serious spirit of the laws of Athens, which provide penalties for even minor offences to preclude the perpetration of graver crimes (§§ 13—20); and he submits that the plea of youth can only be urged in mitigation of punishment and is at any rate inapplicable to Conon himself, a man of more than fifty years of age, who, so far from restraining his sons and the other assailants, was actually the ringleader of them all (§§ 21—23). The defendant was amenable to the laws against highway robbery and brutal outrage and, had death ensued, would have been chargeable with murder (§§ 24, 25).

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[1] Or. 37 (Pant.) § 33 *ἡ μὲν αἰκεία καὶ τὰ τῶν βιαίων πρὸς τοὺς τετταράκοντα, αἱ δὲ τῆς ὕβρεως (δίκαι) πρὸς τοὺς θεσμοθέτας.* See esp. Caillemer in *Dict. des Antiquités* (Daremberg et Saglio) s.v. *Aikias dikè;* or Meier and Schömann, *Att. Process* p. 91 Lips.

He further describes the evasive conduct of the defendant during the preliminary arbitration (§§ 25—29); denounces the falsehood of the evidence put in by persons who were boon-companions of the defendant, deposing that they found the plaintiff fighting with the defendant's son, and that the defendant did not strike the plaintiff; contrasts it with the evidence of impartial persons on his own side attesting to his having been assaulted by the defendant (§§ 30—33); and comments severely on the bad character of the witnesses for the defence (§§ 34—37).

He then warns the court not to allow themselves to be imposed upon by the hard swearing and the sensational imprecations which, he is informed, will be resorted to by the defendant, whose antecedents prove his reckless disregard of things sacred; while he himself, averse though he was to taking even a lawful oath, had for the truth's sake offered to take such a pledge; and, as that offer had been declined by the defendant, he would now for the satisfaction of the court swear solemnly that in very truth he had been brutally assaulted by his opponents (§§ 38—41).

After pointing out that even in this private suit public interests were at stake, he very briefly refers to the way in which his family and himself had done their duty towards their country, while his opponents had done nothing of the kind. 'Even supposing,' he says in conclusion, 'we are of less service to the state than our opponents, *that* is no reason why we should be assaulted and brutally outraged.'

The only clue to the date of the speech is to be found in a passage in § 3, whence we conclude that it was delivered two years after orders were given at Athens for a military force to go out on garrison duty to Panactum, a fort on the Boeotian frontier. We read of such an expedition in B.C. 343[1]; and this would bring us to B.C. 341 as the year of the trial. It has been suggested, however, though no reason is assigned, that this is too late a year, and that there is warrant for believing there was regular military service, as opposed to a special expedition, on the Boeotian frontier in B.C. 357, to protect Attica from a diversion on the part of the Boeotians shortly before the Phocian war, during which there was no occasion for such precautions, as the Phocians kept the Boeotians occupied in another direction[2]. Thus, the military movements referred to in § 3 belong to the time either shortly before or shortly after the Phocian war, in other words, either to B.C. 357 or 343, the speech being thus placed in B.C. 355 or 341 respectively. In the course of an *Excursus* on p. 242, I have pointed out that the reference to the Triballi in the days of Conon's youth supplies us with a hitherto unnoticed coincidence in favour of the later date.

The speech has deservedly won the admiration of ancient and modern critics alike. It is one of the few private orations whose genuineness has never been doubted[1]. The orator Deinarchus is reported to have plagiarized from it[2], the old grammarians often refer to it, and the Greek writers on Rhetoric quote it more frequently than any of the other private orations[3]. In particular Dionysius of Halicarnassus, in his treatise on the eloquence of Demosthenes, after quoting a vivid description from the orator Lysias, one of the highest merits of whose style was the power of clear and graphic narration, selects for comparison the equally vivid passage in the present speech where the plaintiff describes the disorderly doings of his opponents in the camp of Panactum and in the market-place of Athens (§§ 3—9). His criticism is to the effect that the extract from Demosthenes is fully equal to that from Lysias in clearness, correctness, and perspicuity of style, in conciseness and terseness, in unadorned simplicity and in truthfulness of detail. He also commends the skill with which the language of the speaker is kept true to character, and appropriate to the subject, and finds in the narrative much of the winning persuasiveness, the charming grace, and the other merits of style that mark his quotation from Lysias[4]. A modern writer on the literature of the speeches of

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[1] Dem. *de Fals. Leg.* (B.C. 343) § 326 περὶ...τῆς πρὸς Πανάκτῳ χώρας μεθ' ὅπλων ἐξερχόμεθα, ὃ ἕως ἦσαν Φωκεῖς σῷοι οὐδεπώποτ' ἐποιήσαμεν.

[2] A. Schaefer, *Dem. u. s. Zeit*, III 2, p. 251, who notices that on Dem. Mid. § 193 ὅσοι τὰ φρούρια ἦσαν ἔρημα λελοιπότες the Scholiast remarks φρούρια δὲ λέγει μεταξὺ τῆς Ἀττικῆς καὶ Βοιωτίας. πολέμου γὰρ τότε πρὸς Θηβαίους ὄντος διὰ τὴν Εὔβοιαν ἀναγκαῖον ἦν τὰς ἐκ τῆς Βοιωτίας εἰσβολὰς παρὰ τῶν Ἀθηναίων φυλάττεσθαι.

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[1] Blass, *Att. Ber.* III 399^1, 456^2.

[2] Eusebius, *Praepar. Evang.* quoting from Porphyry (*περὶ τοῦ κλέπτας εἶναι τοὺς* Ἕλληνας), x. 3 p. 775 Migne, *Δείναρχος ἐν τῷ πρώτῳ κατὰ* Κλεομέδοντα *αἰκίας πολλὰ μετενήνοχεν αὐτοῖς ὀνόμασιν ἐκ τοῦ Δημοσθένους* Μετὰ (*sic*) Κόνωνος *αἰκίας*.

[3] e.g. Hermogenes quoted on §§ 1, 4.

[4] Dionysius, *de admir. vi dicendi Dem.* 13 *ταῦτα οὐ καθαρὰ καὶ ἀκριβῆ καὶ σαφῆ καὶ διὰ τῶν κυρίων καὶ κοινῶν ὀνομάτων κατεσκευασμένα, ὥσπερ τὰ Λυσίου;... τί δ' οὐχὶ σύντομα καὶ στρογγύλα καὶ ἀληθείας μεστὰ καὶ τὴν ἀφελῆ καὶ ἀκατάσκευον ἐπιφαίνοντα φύσιν, καθάπερ ἐκεῖνα;...οὐχὶ δὲ καὶ πιθανὰ καὶ ἐν ἤθει λεγόμενά τινι καὶ τὸ πρέπον τοῖς ὑποκειμένοις προσώποις τε καὶ πράγμασι φυλάττοντα; ἡδονῆς δ' ἄρα καὶ πειθοῦς καὶ χαρίτων, καιροῦ τε καὶ τῶν ἄλλων ἁπάντων, ἃ τοῖς Λυσιακοῖς ἐπανθοῦσιν, ἆρα οὐχὶ πολλὴ μοῖρα;*

Demosthenes has well remarked that no selection from the Private Orations can be considered complete which does not include the *Conon*[1]; and many years after that remark was made, it was excellently edited for school-reading with a brief German commentary by Westermann. It has also been the subject of an appreciative criticism by Perrot, who writes as follows:

> 'Dans le discours contre Conon...Démosthène réunit aux qualités qui firent le succès de Lysias celles qui distinguent Isée. De Lysias, il tient l'art d'entrer dans le caractère et dans le rôle du personnage qu'il fait parler, de se transformer en lui, si l'on peut ainsi parler, de produire l'illusion la plus complète. Par la vraisemblance et la vivacité du récit, par l'art d'y semer des détails sensibles et pittoresques, de faire voir la chose telle que l'on a intérêt à la présenter, il est bien près d'égaler son modèle...Où Démosthène est tout à fait supérieur à Lysias, c'est dans ce qu'il a appris d'Isée: il tire des témoignages un bien autre parti, il les place, les encadre, les développe et les discute avec une bien autre habileté; il connaît bien mieux les lois, il remonte à leurs principes, il en expose les sens et la portée avec une autorité dont rien chez Lysias ne peut donner l'idée. Enfin, pour n'insister que sur les différences les plus notables, les figures de pensée dont Lysias ignore encore l'usage animent et colorent son style: c'est le dilemme, c'est l'apostrophe, ce sont des interrogations brusques et passionnées, ce sont des mouvements oratoires dont l'élan et la variété nous avertissent que l'éloquence attique n'a plus de progrès à faire, qu'elle touche à sa perfection[2].'

One of our own scholars, in the course of a short chapter devoted mainly to the Private Speeches contained in the present volume, has well observed:—

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[1] *In einer Sammlung aus den Privatreden des Demosthenes dürfte...diese nicht fehlen.* A. G. Becker's *Literatur des Dem.* p. 122, 1830.

[2] G. Perrot, *Revue des deux mondes*, 1873, 3 p. 952—3.

The whole story is told and commented on with exquisite grace. The tone is that of a middle-aged[1] man of precise habits, who knows little law, and would have known less had it not been for the defendant; anxious to seem calm, but not quite able to smother his indignation; a little wanting in a sense of the ludicrous, and so keenly alive to his own respectability—which is a recurring topic—that he must apologise for being aware that such rowdyism even exists[2].

To the modern reader the main interest of the speech is to be found perhaps in the lifelike pictures of Athenian manners incidentally sketched in its pages; and several scenes have accordingly been borrowed from it and interwoven with the narrative of Becker's *Charicles* in illustration of the private life of the ancient Greeks[3]. In particular, we here read of the disorderly clubs formed by young men about town, who, after holding a carouse, would sally forth into the streets to assault quiet people and play practical jokes at the expense of inoffensive citizens. To these indecorous societies the defendant's sons belonged, and the defendant himself in his youth was a member of a club called after a lawless tribe of Thrace, an association that finds its modern parallel in the fraternity, which in the days of Addison took its name from the wild Mohocks of North America, and was for some time the terror of the streets of London. The practical jokes of young Athens in the days of Demosthenes re-appear, some seven centuries later, in a less objectionable, not to say harmless form, in the pleasantries practised by students at the University of Athens at the expense of the 'freshmen' (οἱ νεήλυδες), who, at the first moment of their arrival, were struggled for by the young allies of the rival lecturers, good-humouredly chaffed by them, and escorted with mock gravity through the market-place to the public bath, where, after a feint of frightening them, their tormentors considered the act of initiation completed, and were very good friends to the freshmen ever after[1].

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[1] Youth, rather than middle age, is suggested by § 1 ὑπὲρ τὴν ἡλικίαν (and the context).

[2] S. H. Butcher, *Demosthenes*, 1881, p. 134.

[3] p. 136—139 (with notes) of the 2nd Germ. ed. by K. F. Hermann = p. 80—83 of abridged English ed. of 1866.

The pages of the Greek orators abound in references to house-breaking and highway robbery, to street-brawls and other disorderly acts imperilling the public security[2]; and in the present speech we find that the plaintiff could not take a quiet walk along the market-place of Athens, beneath the rock of the Acropolis, past the temple erected as a memorial of the patriotic self-sacrifice of the daughters of an ancient king of Attica, and by the very scene where the tyrant Hipparchus was slain, without finding himself the victim of a brutal and outrageous assault. In times such as these at Athens, one who was tempted to take an evening stroll with a friend, if invited in language like that of Sebastian in *Twelfth Night*,

> I pray you, let us satisfy our eyes
> With the memorials and the things of fame
> That do renown this city,

might have replied, with Antonio,

> Would you'd pardon me,
> I do not without danger walk these streets.

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[1] Gregor. Nazianzen, Or. 43 *in laudem Basilii magni* c. 16, who describes the initiation as *τοῖς ἀγνοοῦσι λίαν φοβερὸν καὶ ἀνήμερον τοῖς δὲ προειδόσι καὶ μάλα ἡδὺ καὶ φιλάνθρωπον*. Gregory's young friend Basil was one of the few who were spared the ordeal on coming into residence (in A.D. 351).

[2] e.g. (Dem.) Or. 47 *κατ' Εὐέργου καὶ Μνησιβούλου*, Lysias Or. 3 *πρὸς Σίμωνα* and fragm. 75 (ed. Scheibe), a long passage quoted by Dionysius as a parallel to the *Conon* (as already stated, p. lxiv). Cf. Becker's *Charicles*, Sc. v, note 9, and Mahaffy's *Social Life in Greece*, p. 319.

INTRODUCTION TO

Or. LV

ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ ΠΕΡΙ ΧΩΡΙΟΥ ΒΛΑΒΗΣ[1].

This is a speech on the side of the defence in an action for damages alleged to have been incurred by the plaintiff, Callicles, by reason of a wall having been built on the defendant's property to the obstruction of a water-course carrying off the drainage of the surrounding hills. The farms of the plaintiff and defendant lay in a hilly district of Attica, separated from one another by a public road; and the defendant's father, Teisias, on coming into possession of his farm and finding that the water which flowed from the high ground had made an inroad into his property and was cutting itself a regular channel, built a stone-wall round it to prevent the water from making any further encroachment. No protest was raised on the part of the plaintiff's family either at the time or for many years subsequently; Teisias lived fifteen years after building the enclosure, and, after his death, a mountain-torrent caused by a heavy shower of rain overthrew an old wall on the plaintiff's land, flooded his property and damaged some of his stores. Thereupon the plaintiff brought an action for damages, alleging that the flood was due to the stream being diverted to his own side of the road by the proper water-course having been blocked up by the building of the wall on the defendant's property.

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[1] *περὶ χωρίου βλάβης* is the title given by Priscian II 173 H, and by Harpocration, in *one* of his articles (s.v. *χλῆδος*, Or. 55 § 22). The MSS omit *βλάβης*.

The speech for the defence opens by casting on the plaintiff the imputation of bringing the action with a view to getting possession of the defendant's property (§ 1). The speaker, a son of Teisias, whose name is not given, pleads that the wall was built by his father fifteen years before his death, without any objection on the part of the plaintiff's family, and challenges the other side to prove the existence of the water-course alleged to be obstructed by the wall (§§ 3—7); he had offered to refer the dispute to the arbitration of impartial persons familiar with the neighbourhood, but the plaintiff had refused the offer (§§ 8, 9); he then describes carefully the position of the two properties on the opposite sides of the public way, and accounts for the building of the wall (§§ 10, 11). He next calls evidence to prove that the alleged water-course was part of his private ground, as it contained an old burial-place, and an orchard besides (§§ 12—15); he further shews that, as the water would naturally flow down the public way, there was no occasion for such a water-course (§§ 16—18), and that there was no such channel immediately above or below his own property (§ 19). The plaintiff's loss was due to his own carelessness and he was most inconsistent in bringing this action (§ 20); the other neighbours who had suffered severely made no complaint, whereas the plaintiff had lost nothing worth mentioning (§§ 21, 23—25). Again, his opponents had themselves advanced their wall (and thus encroached on public property); they had also raised the level of the road and thus led to the water being liable to be diverted from the road itself to the lands adjacent). After once more referring to the plaintiff's interested motive in bringing the action, he states in conclusion that, though the plaintiff had refused his offer, he had been ready to take the legally recognised oath and to swear that he had not caused the damage alleged, feeling that that would be the strongest argument with a jury who were themselves on their solemn oath.

The general style of the *Callicles*, as indeed that of the *Conon*, is not unlike that of Lysias, and speeches on similar subjects, one on a water-conduit and another on a disputed boundary, are known to have been composed by the orator Hyperides[1], but the genuineness of the speech before us can hardly be seriously contested[2], though it has been suggested that it was written by Demosthenes in his younger days[3]. It is quoted without hesitation by Harpocration and the rhetoricians alike, as the work of Demosthenes himself. The narrow limits of the speech and the somewhat trivial nature of the subject will account for the exordium not being succeeded, as elsewhere, by any formal narrative or statement of the case; instead of this, the narrative of the facts is only incidentally included in the course of the speech, and is blended and interwoven with the thread of the argument. Here and there the argument is brightened by a touch of quiet humour, as in the passage where the speaker, arguing on the supposition of his allowing the rain-water to make an inroad into his property, after exhausting several alternatives of dealing with the stream when once it was there, exclaims in conclusion, 'What *am* I to do with it? for

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[1] *περὶ ὀχετοῦ* and *περὶ τῶν ὀρίων* p. 117 Blass (ed. 1894); fragm. 113 *ὅπως τὸ ἀνώμαλον τοῦ χωρίου τῇ τῶν ἀνδήρων καὶ ὀχετῶν ἀφαιροῖτο κατασκεύῃ.* fragm. 132 *ὀχετόκρανα* (=*αἱ τῶν ὀχετῶν ἀρχαί*).

[2] Bekker however in the Leipzig ed. vol. III, 1855 considers it doubtful; and it is rejected by Sigg, *Apoll.* p. 401 note.

[3] A. Schaefer, u. s., III 2, 256.

I presume the plaintiff won't compel me to drink it up!'

In the course of the speech we have also several indications of the provisions of Athenian law respecting those rights of water, with the Roman law of which we are far better acquainted. We gather that the inferior tenant held his land subject to the limiting obligation, or *servitus* as Roman lawyers would have called it, of giving free passage into his own land for the water, in particular the rain-water, flowing from the superior tenement; and in a passage of Plato's *Laws* we find provisions suggested for regulating the relations between neighbours in rights of this description and requiring the superior proprietor to do everything in his power to relieve the inferior proprietor from unnecessary inconvenience[1]. Again, the law did not allow the diversion of the natural and regular channel of the water by the building of a wall or by any similar construction. Callicles appears to have had no case, as his property did not immediately adjoin that of the defendant but was separated from it by a public way which provided sufficiently for carrying off the water. In some instances, but (as the defendant contends) not in the present, a regularly recognised water-course, or ditch, traversed several successive properties, and it is clear that no individual proprietor could intercept this. It also appears that the proprietor of any land bordering on a public way generally turned his drainage on to the road (§ 26)[2].

The legal issue in the *Callicles* appears to turn in a great measure on the nature of the water-course, the existence of which is maintained by the plaintiff and denied by the defendant. The encroachment made by the floods, before the defendant's father became the proprietor, led to a stream of intermittent rain-water gradually forming a channel for itself (*μᾶλλον ὡδοποίει* § 11) through a burial-ground[1] planted with fruit-trees. The plaintiff appears to have contended that the channel thus formed was a water-course within the terms of the law; the defendant relies on the existence of the trees and the tombs to prove that it was *not* a recognised channel, but part of his private ground, accidentally inundated, and repeatedly traversed by water, more than fifteen years before. It was this damage, he contends, that led to his father building the wall for the protection of his property.

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[1] p. 844, quoted in note on § 19.

[2] Cf. M. Caillemer's article on *Aqua* in Daremberg et Saglio, *Dict. des Antiquités*.

Lastly, we have several points that are curiously suggestive on the state of the country-roads in the hilly districts of Attica; the road itself is assumed to be the natural channel for the drainage of the neighbouring hills, and a proper water-course beside the road is declared to be a thing unheard of. In fact, like some of the present roads of Attica, as described in a modern writer's amusing sketches of Greek brigandage, the road and the stream were one and the same thing, and, except in dry weather, the former hardly existed[2].

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[1] For purposes of *irrigation*, Plato would allow the tenant to divert water from streams that were common property by cutting himself a channel anywhere except through a private house or through temples or tombs. Legg. p. 844 A *τῶν ὑδάτων πέρι γεωργοῖσι παλαιοὶ καὶ καλοὶ νόμοι κείμενοι οὐκ ἄξιοι παροχετεύειν λόγοις, ἀλλ' ὁ βουληθεὶς ἐπὶ τὸν αὑτοῦ τόπον ἄγειν ὕδωρ ἀγέτω μὲν ἀρχόμενος ἐκ τῶν κοινῶν ναμάτων…ᾗ δ' ἂν βούληται ἄγειν, πλὴν δι' οἰκίας ἢ ἱερῶν τινῶν ἢ καὶ μνημάτων, ἀγέτω.*

[2] Edmond About, quoted on p. 259.

XXXVI.

ΠΑΡΑΓΡΑΦΗ ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

ΥΠΟΘΕΣΙΣ.

Πασίων ὁ τραπεζίτης τελευτῶν ἐπὶ δύο παισὶν ἐξ Ἀρχίππης, Ἀπολλοδώρῳ καὶ Πασικλεῖ, Φορμίων’ οἰκέτην ἑαυτοῦ γενόμενον, τετυχηκότα δ’ ἔτι πρότερον ἐλευθερίας, ἐπίτροπον τοῦ νεωτέρου τῶν παίδων Πασικλέους κατέλιπε, καὶ τὴν μητέρ’ αὐτῶν, παλλακὴν ἑαυτοῦ γενομένην, ἔδωκεν ἐπὶ προικὶ γυναῖκα. Ἀπολλόδωρος οὖν νέμεται πρὸς τὸν ἀδελφὸν τὴν πατρῴαν οὐσίαν πλὴν τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου· ταῦτα γὰρ Φορμίων ἐμεμίσθωτο παρὰ Πασίωνος εἰς ὡρισμένον χρόνον τινά. καὶ τέως μὲν ἐλάμβανε τὸ ἥμισυ τῆς μισθώσεως ἑκάτερος, ὕστερον δὲ καὶ αὐτὰ νέμονται, καὶ γίγνεται τὸ μὲν ἀσπιδοπηγεῖον Ἀπολλοδώρου,

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1. *τελευτῶν ἐπὶ δύο παισὶν*] ‘Dying with (*in possession of*) two children,’ i.e. ‘leaving two children behind him at his death’; an idiom not unfrequent in late Greek, e.g. Herodian (fl. A.D. 238) IV 2 § 1 *ἔθος ἐστὶ Ῥωμαίοις ἐκθειάζειν βασιλέων τοὺς ἐπὶ παισὶ διαδόχοις τελευτήσαντας.* Or. 27 Arg. § 1.

5. *παλλακὴν*] ‘Quo iure Libanius Archippam, quae et in testimonio Pasionis (Or. 45 § 28) et alibi (36 §§ 30, 31; 46 § 13) uxor (*γυνὴ*) eius dicitur, hoc loco *παλλακὴν* vocaverit, non apparet’ (Huettner).

6. *ἐπὶ προικὶ*] For the construction cf. Or. 28 § 16 *τούτῳ τὴν ἐμὴν μητέρα ἐγγυῶν ἐπὶ ταῖς ὀγδοήκοντα μναῖς*, ib. § 19; 41 § 6. The marriage portion of Archippê amounted to five talents, as we learn from Or. 45 § 74, cf. ib. § 28 *ἠκούσατε τὸ πλῆθος τῆς προικός, τάλαντον ἐκ Πεπαρήθου, τάλαντον αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία κ.τ.λ.*

10. *μισθώσεως*] ‘rent,’ as in §§ 33, 36.

αὐτὰ] They share between them the properties themselves, viz. when Phormion’s lease of them had expired.

§ 2 Πασικλέους δ' ἡ τράπεζα. ἀποθανούσης δὲ καὶ τῆς μητρὸς
ὕστερον, νειμάμενος καὶ τὴν ἐκείνης οὐσίαν, ἐνεκάλει τῷ
Φορμίωνι ὡς πόλλ' ἔχοντι ἑαυτοῦ χρήματα[a]. καθίσαντες
οὖν ἑαυτοὺς διαιτητάς, ὥς φησι Φορμίων, Ἀπολλοδώρῳ προσ-
ήκοντες, Νικίας καὶ Δεινίας[b] καὶ Ἀνδρομένης, ἔπεισαν
Ἀπολλόδωρον διαλύσασθαι πρὸς Φορμίωνα τὰ ἐγκλήματα
λαβόντα πεντακισχιλίας. ὁ μὲν οὖν Ἀπολλόδωρος μετὰ
ταῦτα πάλιν εἴληχε δίκην Φορμίωνι ἀφορμῆς· ἀφορμὴν δὲ 944
οἱ Ἀττικοὶ καλοῦσιν ὅπερ ἡμεῖς ἐνθήκην. ὁ δὲ Φορμίων
§ 3 παραγράφεται, νόμον παρεχόμενος τὸν κελεύοντα περὶ ὧν
ἂν ἅπαξ ἀφῇ τις καὶ διαλύσηται μηκέτ' ἐξεῖναι δικάζεσθαι.
ἅπτεται μέντοι καὶ τῆς εὐθείας ὁ ῥήτωρ, δεικνὺς ὡς οὐκ

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[a] *χρήμαθ' ἑαυτοῦ propter hiatum mavult* Blass.
[b] + *καὶ Λυσῖνος* Voemel, *coll.* § 15.

19. *εἴληχε*] In Grammarian's Greek, this stands either for *λαγχάνει* or *ἔλαχε*. So *πέπομφε* is used in the Argument to Or. 34, line 31, and so *πεποίηκεν* below. P.]

δίκην ἀφορμῆς] 'A suit referring to capital,' 'a suit for the recovery of banking stock.' § 12 *ἐγκαλοῦντ' ἀφορμήν*.

20. *οἱ Ἀττικοί*] Harpocration s. v. *ἐπιψηφίζειν*: *παρὰ τοῖς Ἀττικοῖς*: s. v. *πρυτανεῖα*: *παρὰ τοῖς ἄλλοις Ἀττικοῖς* (after naming Isocrates).

ἐνθήκην] Harpocration s.v. *ἀφορμή· ὅταν τις ἀργύριον δῷ ἐνθήκην, ἀφορμὴ καλεῖται ἰδίως παρὰ τοῖς Ἀττικοῖς*. And similarly Hesychius, and Phrynichus, ed. Rutherford p. 304. For this late Greek equivalent to *ἀφορμή* references are given in Sophocles' *Lex. of Rom. and Byzantine Greek* to Phrynichus 223 (fl. A.D. 180), and Basil (the Great) III 320 (A.D. 329—379).

21. *παραγράφεται κ.τ.λ.*] 'Phormion raises a special plea in bar of action, by appealing to a statute enacting that, on matters on which a release and quittance has once been granted, no subsequent litigation shall be lawful.' See note on § 25 *ἀφεὶς καὶ ἀπαλλάξας*. Pollux 8 § 57 *παραγραφή· ὅταν τις μὴ εἰσαγώγιμον λέγῃ εἶναι τὴν δίκην, ἢ ὡς κεκριμένος, ἢ διαίτης γεγενημένης, ἢ ὡς ἀφειμένος, ἢ ὡς τῶν χρόνων ἐξηκόντων* (§ 26) *ἐν οἷς ἔδει κρίνεσθαι·* where are enumerated the four principal circumstances under which an ordinary action is not maintainable. (Cf. C. R. Kennedy, *Dem. Lept.* &c. Vol. III Appendix, IX p. 378; Meier and Schömann, *Att. Process*, p. 849—856 ed. Lipsius.)

παρεχόμενος] 'adducing,' = *προϊσχόμενος*. A use of the participle analogous to *παρέχεσθαι μάρτυρας* (Or. 27 § 8), said of one who is pleading his own cause, and so, inf. § 54, and often elsewhere. P.]

23. *ἅπτεται τῆς εὐθείας*] Sc. *δίκης*. 'Touches on, handles, grapples with, the general issue,' *εὐθυδικία* being the direct course

εἶχεν ἡ τράπεζα χρήματ' ἴδια τοῦ Πασίωνος. τοῦτο δὲ πεποίηκεν, ἵν' ἡ παραγραφὴ μᾶλλον ἰσχύῃ, τῆς εὐθείας δεικνυμένης[°] τῷ Ἀπολλοδώρῳ σαθρᾶς.

Τὴν μὲν ἀπειρίαν τοῦ λέγειν, καὶ ὡς ἀδυνάτως

[°] δεικνυομένης Z.

of an action argued on the merits of the case, as opposed to *παραγραφή*, and to *διαμαρτυρία* in Isaeus 7 § 3. Cf. Or. 34 *ὑπόθ.* § 4, *τὴν εὐθεῖαν*, and in the speech itself, § 4, *εὐθυδικίαν εἰσιόντα.* Or. 45 § 6 (where Apollodorus is speaking of the defendant in the present case) *προλαβών μου ὥστε πρότερον λέγειν διὰ τὸ παραγραφὴν εἶναι καὶ μὴ εὐθυδικίᾳ* (*fortasse -αν*) *εἰσιέναι.*

24. *τοῦτο δὲ πεποίηκεν κ.τ.λ.*] 'He has done (or 'does') this to give greater force to the special plea, by proving that, even on its own merits, the case of the plaintiff is quite untenable.' (*σαθρᾶς*, thoroughly rotten, unsound, Or. 18 § 227.) Cf. *ὑπόθεσις* of Or. 32 (Zenoth.) *δείκνυσιν ὡς θαρρεῖ μὲν τῇ εὐθείᾳ, ἐκ περιουσίας δὲ αὐτῷ καὶ παραγραφὴν ὁ νόμος δίδωσιν.*

§§ 1—3. *The defendant Phormion's obvious inexperience and incapacity for public speaking make it necessary for his friends to state his case on his behalf. They confront the plaintiff Apollodorus with a special plea in bar of action, not to waste time and evade the main issue, but to secure a final settlement of the case. Their friend, the defendant, has conferred many kindnesses on the plaintiff; and has further been released from all the legal claims of the latter, only to find himself at last the victim of a vexatious lawsuit. However, a brief recital of the transactions of the litigants will prove that the plaintiff's case is utterly untenable.*

1. *τὴν ἀπειρίαν τοῦ λέγειν*] Like all slaves at Athens, Phormion (once the slave of the banker Pasion) was of barbarian birth; and though subsequently rewarded with the rights of freedom and citizenship, remained unable to speak good Greek. In a later speech arising out of the present action, Apollodorus, himself the son of one who was once a slave, taunts him with his foreign extraction and his indifferent pronunciation. Or. 45 § 81 *βάρβαρος ἐωνήθης*, and § 30 *ἴσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει τῇ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι, ἔστι δὲ βάρβαρος οὗτος τῷ μισεῖν οὓς αὐτῷ προσῆκε τιμᾶν, τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματα οὐδενὸς λείπεται.* In § 77, Apollodorus himself apologizes for his broad brogue or loud voice (*λαλεῖν μέγα*); the speaker of *πρὸς Πανταίνετον* makes similar excuses for his *διάλεκτος* (Or. 37 §§ 52, 55); and a like tribute to the sensitiveness of an Attic audience is paid by the Mytilenaean in Antiphon's de Caede Herodis (Or. v § 5) *δέομαι ὑμῶν ...ἐάν τι τῇ γλώσσῃ ἁμάρτω, συγγνώμην ἔχειν μοι καὶ ἡγεῖσθαι ἀπειρίᾳ αὐτὸ μᾶλλον ἢ ἀδικίᾳ ἡμαρτῆσθαι.* Cf. Cicero *Or.* §§ 24—27.

ἀδυνάτως ἔχει] 'Is quite in-ἔχει Φορμίων, αὐτοὶ πάντες ὁρᾶτ' ὦ ἄνδρες Ἀθηναῖοι· ἀνάγκη δ' ἐστὶ τοῖς ἐπιτηδείοις ἡμῖν, ἃ σύνισμεν πολλάκις τούτου διεξιόντος ἀκηκοότες, λέγειν καὶ διδάσκειν ὑμᾶς, ἵν' εἰδότες καὶ μεμαθηκότες ὀρθῶς [τὰ δίκαια][a] παρ' ἡμῶν, ἂν ᾖ δίκαια καὶ εὔορκα, ταῦτα ψηφίσησθε. 2 τὴν μὲν οὖν παραγραφὴν ἐποιησάμεθα[b] τῆς δίκης[c], οὐχ ἵν' ἐκκρούοντες χρόνους ἐμποιῶ-

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[a] *seclusit Herwerden* (Bl.). [b] *πεποιήμεθα?* Bl.
[c] *τῆς δίκης fortasse delendum putat* Bl.

capable,' referring mainly to his inexperience and want of facility in speaking. Thus in Antiphon *u. s.* v § 2 *ἡ τοῦ λέγειν ἀδυναμία* is contrasted with *ἡ ἐμπειρία τῶν πραγμάτων*. It is suggested by Blass, *Att. Ber.* III 405¹ (463²), that *ἀδυνάτως* refers to feebleness of health, but this appears improbable.

ὁρᾶτε] In a general sense, 'you all of yourselves observe.' Or. 3 Olynth. § 1 *τοὺς λόγους... ὁρῶ γιγνομένους.*

τοῖς ἐπιτηδείοις] as his *συνήγοροι*. Hyperid. Euxen. 25 *τί τούτου τῶν ἐν τῇ πόλει βέλτιον ἢ δημοτικώτερόν ἐστι...ἢ ὁπόταν τις ἰδιώτης εἰς ἀγῶνα καὶ κίνδυνον καταστὰς μὴ δύνηται ὑπὲρ ἑαυτοῦ ἀπολογεῖσθαι, τούτῳ τὸν βουλόμενον τῶν πολιτῶν ἀναβάντα βοηθῆσαι; κ.τ.λ.*

λέγειν καὶ διδάσκειν] Dem. is particularly fond of coupling together words that are nearly synonymous with one another, e.g. in the next line, *εἰδότες καὶ μεμαθηκότες*, and in the next, *δίκαια καὶ εὔορκα*, § 4 *ἀκοῦσαι καὶ μαθεῖν*, § 12 *λέγειν καὶ ἐπιδεικνύναι*, § 18 *πεπραγμένα καὶ γεγενημένα*, § 29 *ὄντι καὶ ζῶντι*, § 32 *δόντος καὶ ἐπισκήψαντος*, § 47 *κοσμεῖν καὶ περιστέλλειν*, § 61 *φυλάττετε καὶ μέμνησθε*. Also § 16 *αἰτίας καὶ ἐγκλήματα* (cf. § 61), § 2 *ἰσχυρὰ καὶ βέβαια*. Similarly in Or. 20 § 163 *λέγειν καὶ διεξιέναι*, 21 § 17 *εἰπεῖν καὶ διηγήσασθαι* (Huettner). This characteristic of his style is noticed by Dionysius Hal. *περὶ τῆς Δημ. δεινότητος* 58, and is illustrated by Blass, *Att. Ber.* III 94¹ (97²).

ἂν ᾖ δίκαια—εὔορκα] The relative clause to *ταῦτα ψηφίσησθε* is placed before it partly for increased emphasis, partly to bring *δίκαια* closer to *τὰ δίκαια* in the previous context.

2. *ἵν' ἐκκρούοντες χρόνους ἐμποιῶμεν*] 'With the evasive object of wasting time,' or (with Kennedy) 'for the sake of evasion and delay.' The phrase *χρόνους ἐμποιεῖν* occurs in Or. 9 § 71, 23 § 93. Cf. Or. 47 § 63 *διατριβὰς ἐμποιῶν......τεχνάζων τοῦ χρόνον ἐγγενέσθαι.* For *ἐκκρούοντες*, cf. Or. 54 § 30; 40 § 45 *τὴν δίκην ὅτι πλεῖστον χρόνον ἐκκρούειν*, ib. 43; and for the general sense, Thuc. III 38 *χρόνου διατριβὴν ἐμποιεῖν* and Or. 45 § 4, p. 1102, *χρόνου γιγνομένου καὶ τῆς γραφῆς ἐκκρουομένης.* Liddell and Scott (ed. 6) give a phrase *ἐκκρούειν χρόνον*, 'to waste time,' and, to prove it, inadvertently refer to the last passage and to the words of the text, where *χρόνους* clearly comes

*μεν, ἀλλ' ἵνα τῶν πραγμάτων, ἐὰν ἐπιδείξῃ μηδ' ὁτιοῦν
ἀδικοῦνθ' ἑαυτὸν οὑτοσί, ἀπαλλαγή τις αὐτῷ γένηται
παρ' ὑμῖν*[d] *κυρία. ὅσα γὰρ παρὰ τοῖς ἄλλοις ἐστὶν
ἀνθρώποις ἰσχυρὰ καὶ βέβαια, ἄνευ τοῦ παρ' ὑμῖν
945 ἀγωνίσασθαι, ταῦτα πάντα πεποιηκὼς Φορμίων
οὑτοσί, καὶ πολλὰ μὲν εὖ πεποιηκὼς Ἀπολλόδωρον
τουτονί, πάντα δ', ὅσων κύριος τῶν τούτου κατελείφθη,* 3
*διαλύσας καὶ παραδοὺς δικαίως, καὶ πάντων ἀφεθεὶς
μετὰ ταῦτα τῶν ἐγκλημάτων, ὅμως, ὡς ὁρᾶτ', ἐπειδὴ
φέρειν τοῦτον οὐχ οἷός τ' ἐστί, δίκην ταλάντων*

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[d] *ὑμῶν* Harp. s. v. *ἀφεὶς καὶ ἀπαλλάξας.*

after *ἐμποιῶμεν* (corrected in ed. 7, 1883).

ἀπαλλαγὴ...κυρία] A legal and valid (or final) acquittal from all future actions, *πραγμάτων*. Cf. Harpocr. quoted on § 25.

ἄνευ τοῦ παρ' ὑμῖν ἀγωνίσασθαι] 'Without standing a trial in your court.'

πεποιηκὼς...εὖ πεποιηκὼς...... διαλύσας ... παραδοὺς ... ἀφεθεὶς] Although all these participles refer to Phormion, who is the subject of the first part of the sentence, the principal verb *συκοφαντεῖ* refers to Apollodorus. To obviate the harshness of this anacoluthon it has been proposed (by G. H. Schaefer) to follow one of the MSS, the *Augustanus primus*, in reading *πεποίηκε* for *πεποιηκὼς*, and also to strike out *καὶ* before *πολλὰ*, and place a full stop at *ἐγκλημάτων*. [But we should still expect *ὅμως δ'*, or *ἀλλ' ὅμως*. Perhaps it is better to regard this as an instance of the '*nominativus pendens*.' P.] The Zürich editors refer to Funkhaenel, quaest. Dem. p. 75 sq.

3. *τούτου*] Apollodorus.

διαλύσας κ. παραδοὺς κ.τ.λ.] 'Having duly paid and delivered up everything——and having thereafter received a discharge from all further claims.' For *διαλύειν τι*, cf. 20 § 12 *κοινῇ διαλῦσαι τὰ χρήματα*, 28 § 2; 29 § 7; 41 § 8. For another construction *διαλύειν τινά*, cf. § 50.

ἀφεθεὶς—ἐγκλημάτων] Or. 45 §§ 5, 40; Lys. 3 § 25 *ἐφειμένους τῶν ἐγκλημάτων*, Isaeus 5 § 1 *ἀφήκαμεν ἀλλήλους τῶν ἐγκλημάτων*.

ἐπειδὴ φέρειν τοῦτον οὐχ οἷός τ' ἐστί] i.e. since (or, at a time when) Phormion cannot submit any longer to the unconscionable claims of Apollodorus (and therefore declines to make any further concessions), the latter has vexatiously instituted the present action. The subject of the subordinate clause appears to be Phormion. For the sense, compare the language ascribed to Apollodorus in § 33 *μίσθωσιν ἤθελεν αὐτῷ φέρειν Φορμίων πολλήν...ἐπεὶ δ' οὐ ποιεῖ ταῦτα, τηνικαῦτα, φησί, δικάζομαι*, and especially Or. 45 § 5 *ἐπειδὴ ποιεῖν τ' οὐδὲν ᾤετο δεῖν ὧν τόθ'* *εἴκοσιν λαχὼν αὐτῷ ταύτην συκοφαντεῖ. ἐξ ἀρχῆς οὖν ἅπαντα τὰ πραχθέντα τούτῳ πρὸς Πασίωνα καὶ Ἀπολλόδωρον ὡς ἂν δύνωμαι διὰ βραχυτάτων εἰπεῖν πειράσομαι, ἐξ ὧν εὖ οἶδ' ὅτι ἥ τε τούτου συκοφαντία φανερὰ γενήσεται, καὶ ὡς οὐκ εἰσαγώγιμος ἡ δίκη γνώσεσθ' ἅμα ταῦτ' ἀκούσαντες.*

4 *Πρῶτον μὲν οὖν ὑμῖν ἀναγνώσεται τὰς συνθήκας,*

ὡμολόγησε, καὶ τὰ χρήματ' ἀποστερεῖν ἐνεχείρησεν ἃ τῆς τραπέζης εἶχεν ἀφορμήν, δίκην ἠναγκάσθην λαχεῖν. For *φέρειν* cf. 21 § 197 *ὃν...οὐ φίλοι δύνανται φέρειν.*—For *δίκην λαχών*, cf. Or. 54 § 1, *ἔλαχον δίκην* n.

συκοφαντεῖ] Cf. Or. 55 § 1 n. ——*πραχθέντα τούτῳ*, Or. 34 § 36 n.

Πασίωνα] Pasion, originally the slave of Archestratus (§ 48), and accountant to the banking-firm of Archestratus and Antisthenes, was set free by his masters and succeeded them in their business (§§ 43—48). The *Trapeziticus* of Isocrates, which belongs to B.C. 394, while Pasion was probably still a *μέτοικος*, and not yet rewarded with the citizenship of Athens, purports to be a speech written in prosecution of Pasion for defrauding a subject of Satyrus, king of Bosporus. The father of Demosthenes had some money in Pasion's bank (Or. 27 § 11). Pasion, according to his son, Apollodorus, had conferred many benefits on the state, e.g. by presenting five triremes and a thousand shields (Or. 45 § 85), and his credit was good throughout all Greece (Or. 50 § 56). He died in B.C. 370 (Or. 46 § 13). *Introd.* pp. xix—xxi.

οὐκ εἰσαγώγιμος] Or. 45 § 5 (of this very trial), *παρεγράψατο τὴν δίκην ἣν ἔφευγε Φορμίων οὐκ εἰσαγώγιμον εἶναι.* See *ὑπόθεσις* § 3, *παραγράφεται*, n.

§§ 4—11. *Statement of the transactions of Phormion with Pasion and Apollodorus. After Phormion had become his own master, but before he had received the rights of Athenian citizenship, Pasion gave him a lease of the Bank and the Shield - Manufactory. Subsequently Pasion became ill and died, leaving a will whereby Phormion married his former master's widow (Archippe), and became guardian to his younger son (Pasicles). The elder son (Apollodorus) proceeded to appropriate large sums out of the common estate, and the guardians accordingly deemed it prudent on behalf of their ward to determine on a partition of all the effects except the Bank and Shield-Manufactory, leased to the defendant, who was one of the guardians. The defendant paid a moiety of the rent of that property to the elder son, Apollodorus, who when Pasicles came of age discharged the defendant from his liability under the lease and from all further claims. The said property was thereupon divided between the two brothers, the elder exercising his option in favour of the Shield-Manufactory, as the safer though less remunerative busi-*

καθ' ἃς ἐμίσθωσε Πασίων τὴν τράπεζαν τουτῳὶ[e] καὶ τὸ ἀσπιδοπηγεῖον. καί μοι λαβὲ τὰς συνθήκας καὶ τὴν πρόκλησιν καὶ τὰς μαρτυρίας ταυτασί.

ΣΥΝΘΗΚΑΙ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

Αἱ μὲν οὖν συνθῆκαι, καθ' ἃς ἐμίσθωσεν ὁ Πασίων τουτῳὶ[e] τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγεῖον ἤδη καθ' ἑαυτὸν ὄντι, αὗταί εἰσιν ὦ ἄνδρες Ἀθηναῖοι· δεῖ δ' ὑμᾶς ἀκοῦσαι καὶ μαθεῖν ἐκ τίνος τρόπου προσώφειλε

ness, and leaving the Bank, with its higher but more hazardous revenue, to his younger brother.

4. *ἀναγνώσεται*] sc. *ὁ γραμματεύς*, the clerk of the court, as in §§ 21, 24, 40.—*συνθήκας*: The terms are given in Or. 45 § 32 *μίσθωσιν φέρειν τοῦτον ἄνευ τῆς καθ' ἡμέραν διοικήσεως δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ ἐνιαυτοῦ ἑκάστου...προσγέγραπται δὲ τελευταῖον 'ὀφείλει δὲ Πασίων ἕνδεκα τάλαντα εἰς τὰς παρακαταθήκας.'*

ἀσπιδοπηγεῖον] Or. 45 § 85 *ὁ ἐμὸς ὑμῖν πατὴρ* (Pasion) *χιλίας ἔδωκεν ἀσπίδας.*

τὴν πρόκλησιν] Probably a challenge to Apollodorus for the production of the articles of agreement between Pasion and Phormion. On the term in general, see Or. 54 § 27, *προκαλοῦνται*, n. and infr. § 7 n.

ἤδη καθ' ἑαυτὸν ὄντι] 'Doing business on his own account, as his own master,' no longer subject, as a slave, to the control of another, though still a *μέτοικος*. This rendering is supported by C. R. Kennedy and M. Dareste. Similarly in Reiske's *index*: 'when he had left his master's service, and gone into business for himself, in his own name, at his own risk.' *καθ' ἑαυτὸν* is often used of being 'by oneself,' separate from others; 21 § 140 *καθ' ἑαυτὸν ζῶντι*, 10 § 52 *γεγόνασι καθ' αὑτοὺς ἕκαστοι*.

προσώφειλε κ.τ.λ.] The defendant has to explain how it comes to pass that Pasion is entered in the articles of agreement as owing eleven talents to the bank. He shows that this sum had been lent by Pasion on the security of certain lands and houses on which Pasion as the creditor, being an Athenian citizen, would have a claim, in the event of the loan not being refunded or the interest regularly paid. As Phormion, the lessee of the banking business, had not yet acquired the rights of citizen-

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[e] *pro τούτῳ scripsit* Bl. *hic et in* §§ 11, 12; *cf.* §§ 35, 59, 61. *Pronominum usus hic est, ut de Phorm. adhibeatur vel οὑτοσί vel ὅδε vel etiam οὗτος, maxime ubi compellatur Apollodorus, de Apoll. autem neque οὑτοσί* (*praeter* Ἀπολλ. *οὑτοσί*) *neque ὅδε* (*praeter unum locum* § 34, *ubi opponitur Pasicles*), *sed οὗτος constanter* (Blass).

5 τὰ ἕνδεκα τάλανθ' ὁ Πασίων ἐπὶ τὴν τράπεζαν. οὐ
γὰρ δι' ἀπορίαν ταῦτ' ὤφειλεν, ἀλλὰ διὰ φιλεργίαν.
ἡ μὲν γὰρ ἔγγειος ἦν οὐσία Πασίωνι μάλιστα ταλάν-
των εἴκοσιν, ἀργύριον δὲ πρὸς ταύτῃ δεδανεισμένον
[ἴδιον][f] πλέον[g] ἢ πεντήκοντα τάλαντα. ἐν [οὖν τοῖς
πεντήκοντα ταλάντοις][h] τούτοις ἀπὸ τῶν παρακατα- 946
θηκῶν τῶν τῆς τραπέζης ἕνδεκα τάλαντ' ἐνεργὰ ἦν.

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[f] *propter sensum seclusi; idem etiam propter syllabas breves facit* Bl.

[g] μᾶλλον r *a me collatus.*

[h] *om.* Bl. *cum* A, *coll. Or.* 3 § 10.

ship, it was therefore arranged that Pasion should not transfer these securities to Phormion but keep them in his own hands, and credit Phormion with their value: in other words, enter himself in the articles of agreement as debtor to the bank to the amount of eleven talents.

For *προσώφειλε*, the compound verb followed by the simple *ὤφειλε* where the repetition of the preposition is not necessary, cf. Cic. Catil. IV 1 *perferrem...feram.* Cf. Or. 53 § 4.

5. *ἀπορίαν...φιλεργίαν*] 'Not *want* but *thrift*,' or (with Kennedy) 'Not on account of poverty, but on account of his industry in business.' In Or. 45 § 33 Apollodorus insinuates that the debt arose from Phormion's mismanagement.

ἔγγειος οὐσία] 'Property in land,' 'real property,' also called *φανερὰ οὐσία*. Harpocr. *ἀφανὴς οὐσία καὶ φανερά· ἀφανὴς μὲν ἡ ἐν χρήμασι καὶ σώμασι καὶ σκεύεσι, φανερὰ δὲ ἡ ἔγγειος.* Lysias, fragm. 91, *τοῦ νόμου κελεύοντος τοὺς ἐπιτρόπους τοῖς ὀρφανοῖς ἔγγειον τὴν οὐσίαν καθιστάναι* (Suidas s. v. *ἔγγειον*).

ἀργύριον πρὸς ταύτῃ] 'In addition to this he had money of his own (personal property) lent out on interest to the amount of more than fifty talents.' The larger amount so employed shows that he was a usurer by practice or profession. P.]

ἐν οὖν τοῖς πεντήκοντα...ἕνδεκα] We have just been told that Pasion had more than 50 talents of his own money (*ἀργύριον ἴδιον*) lent out at interest, and we now find that *ἐν τοῖς πεντήκοντα ταλάντοις* there were 11 talents from the bank-deposits, profitably invested. The latter could hardly be called *ἴδιον ἀργύριον*, unless the words are used loosely in the general sense of 'personal property' as opposed to *ἔγγειος οὐσία* or 'real property.' But we should perhaps strike out *ἴδιον* and attribute its insertion to an accidental repetition of *πλέον*, as ΙΔΙΟΝ and ΠΛΕΟΝ are not very unlike one another. Blass accepts this, pointing out that *ἴδιον* is also open to objection on rhythmical grounds. Or again, keeping *ἴδιον* we might alter *ἐν οὖν* into *ἐπ' οὖν* 'in addition to,' 'over and above' the 50 talents. Heraldus proposed *σὺν οὖν*, and G. H. Schaefer unsuccessfully attempts to show that *ἐν* may mean 'besides,' by quoting the quasi-adverbial use of *ἐν δὲ* in Soph. Ai. 675, O. C. 55, and O. T. 27.

μισθούμενος οὖν ὅδε τὴν ἐργασίαν αὐτὴν[i] *τῆς τραπέζης* 6 *καὶ τὰς παρακαταθήκας [λαμβάνων]*[k]*, ὁρῶν ὅτι μήπω τῆς πολιτείας αὐτῷ*[l] *παρ' ὑμῖν οὔσης οὐχ οἷός τ' ἔσοιτ' εἰσπράττειν ὅσα Πασίων ἐπὶ γῇ καὶ συνοικίαις*

[i] *αὐτὴν* Bekk. st. et Z *cum* S (*coll.* § 13). *αὐτὴν τὴν* Voemel *cum* Ar. *ταύτην τὴν* Bekk. Dind. [k] *secl.* Bl. *coll.* § 13.
[l] *αὐτῷ* Bekk. Z et Voemel (*cf. tamen Buttmann. in Mid. exc.* x).

[In the sense of 'in addition to' he should rather have said *πρὸς* than *ἐπί*. Perhaps *ἐν* means 'mixed up with,' i.e. out at loan to the same borrowers as his own money was (Boeckh *P. E.* p. 480 Lewis^2=622 Lamb). P.]

'Pasion a prêté en tout 50 talents, à savoir 39 de ses fonds personnels, et onze des fonds provenant des dépôts faits à la banque...Tous ces fonds sont indistinctement prêtés au nom de Pasion (*ἴδιον*), qui est seul créancier des emprunteurs, tout en restant débiteur des déposants.' Dareste, who agrees with A. Schaefer, *Dem. u. s. Zeit* III 2, 132.

ἐνεργὰ] 'Out on interest,' 'profitably invested,' as opposed to *ἀργὰ* 'lying idle.' Or. 27 § 7 *τά τ' ἐνεργὰ αὐτῶν καὶ ὅσα ἦν ἀργά*, § 10 *ταῦτα μὲν ἐνεργὰ κατέλιπεν ...τὸ δ' ἔργον αὐτῶν πεντήκοντα μναῖ*, 56 § 29 *τὸ δάνειον...ἐνεργὸν ποιεῖν*.

παρακαταθήκη] Plato defin. p. 415 *δόμα μετὰ πίστεως*. Claims for the repayment of such banking deposits form the subject of two of the forensic orations of Isocrates, the *Trapeziticus* and the *ἀμάρτυρος πρὸς Εὐθύνουν*.

6. *μήπω τῆς πολιτείας κ.τ.λ.*] No one would lend money on the security of land unless in default of payment (Or. 35 § 12) the lender had the right to take possession of such land, and this right of possession was confined to citizens to the exclusion of *μέτοικοι* (or resident aliens) like Phormion. In a similar case a special exception was once made by the Byzantines: Aristot. Oeconom. II 4 *μετοίκων τινῶν ἐπιδεδανεικότων ἐπὶ κτήμασιν οὐκ οὔσης αὐτοῖς ἐγκτήσεως, ἐψηφίσαντο τὸ τρίτον μέρος εἰσφέροντα τοῦ δανείου τὸν βουλόμενον κυρίως ἔχειν τὸ κτῆμα* (Büchsenschütz, *Besitz und Erwerb im Griechischen Alterthume*, pp. 492—3, K. F. Hermann, *Rechtsalt.* § 13, p. 103^4 Thalheim).

[On the insecurity of lending money on houses or lands, except for citizens, see Boeckh, *P. E.* pp. 140 and 654 Lewis^2, who observes on this passage that 'no resident alien could safely lend money upon houses or other landed property, a privilege which was confined to the citizens.' Of course *μήπω οὔσης*, 'si nondum esset,' is very different from *οὔπω οὔσης*, 'cum nondum esset.' P.]

ἔσοιτ'] See note on 53 § 8.

ἐπὶ γῇ...δεδανεικὼς] Cf. *ἔγγυον*, or *ἔγγειον*, *δάνεισμα* and Or. 34 § 23 *ἔγγειοι τόκοι*. (K. F. Hermann, *Privatalterthümer* § 49,=p. 460 ed. Blümner, and Büchsenschütz, *u. s.* p. 490.)

συνοικίαις] See n. on Or. 53 § 13 *τίθημι τὴν συνοικίαν ἐκκαίδεκα μνῶν*. Houses built in

δεδανεικὼς ἦν, εἵλετο μᾶλλον αὐτὸν τὸν Πασίωνα χρήστην ἔχειν τούτων τῶν χρημάτων ἢ τοὺς ἄλλους χρήστας, οἷς προειμένος ἦν. καὶ οὕτω διὰ ταῦτ᾽ ἐγράφη [εἰς τὴν μίσθωσιν][m] προσοφείλων ὁ Πασίων ἕνδεκα τάλαντα, ὥσπερ καὶ μεμαρτύρηται ὑμῖν.

7 Ὃν μὲν τοίνυν τρόπον ἡ μίσθωσις ἐγένετο, μεμαρτύρηται ὑμῖν ὑπ᾽ αὐτοῦ τοῦ ἐπικαθημένου· ἐπιγενομένης δ᾽ ἀρρωστίας τῷ Πασίωνι μετὰ ταῦτα, σκέψασθ᾽ ἃ διέθετο. λαβὲ τῆς διαθήκης τὸ ἀντίγραφον καὶ τὴν πρόκλησιν ταυτηνὶ[n] καὶ τὰς μαρτυρίας ταυτασί, παρ᾽ οἷς αἱ διαθῆκαι κεῖνται[o].

[m] *propter hiatum secl.* Bl. [n] Bekk. ταύτην Z *cum* SAr; *cf.* § 40.
[o] παρ᾽ οἷς—κεῖνται *interpolata esse censet* Huettner.

blocks and let out to families were commonly so called. The συνοικίαι were chiefly let as lodgings for the μέτοικοι. Cf. § 34 n.

ἢ τοὺς ἄλλους χρήστας] 'Than the others, to whom Pasion had lent it, debtors to the bank.' Perhaps the word χρήστας is interpolated. P.]

οἷς προειμένος ἦν] In the medial sense. Liddell and Scott, s. v. προΐημι B iii, refer to this passage for the sense 'to give away,' 'to give freely.' But it here means 'to lend' as in Plato Demod. 384. Cf. Or. 56 §§ 2, 48, 50.

ἐγράφη ... προσοφείλων ἕνδεκα τάλ.] Or. 45 § 29 προσγέγραπται ἕνδεκα τάλαντα ὁ πατὴρ (Pasion) ὀφείλων εἰς τὰς παρακαταθήκας τούτῳ, and § 34 ἐῶ τἄλλ᾽ ὅσ᾽ ἂν περὶ τῶν ἕνδεκα ταλ. ἔχοιμι εἰπεῖν, ὡς οὐκ ὤφειλεν ὁ πατήρ, ἀλλ᾽ οὗτος ὑφῄρηται.

'Ces onze talents provenant de dépôts constituaient une dette exigible de la part des déposants, et par suite un danger pour la banque du moment que le contre-valeur n'était pas facilement et promptement réalisable. C'est pourquoi Pasion donne à Phormion sa garantie pour les onze talents. Il reste créancier de ses emprunteurs, mais il devient débiteur, envers la banque, d'une somme égale de sa créance sur ces derniers.' Dareste.

7. τοῦ ἐπικαθημένου] 'The manager, the clerk, of the bank.' Elsewhere Phormion himself is described by Apoll. as τὸν ἐπικαθήμενον ἐπὶ τῆς τραπέζης (Or. 49 § 17, cf. 49 § 33) and καθήμενον καὶ διοικοῦντα ἐπὶ τῇ τραπέζῃ (Or. 45 § 33). Isocr. Or. 17 (Trapez.) § 12, Pollux III 84 ἐπικαθήμενος τραπέζῃ, S. Matt. ix 9 καθήμενον ἐπὶ (in charge over) τὸ τελώνιον.

ἀρρωστίας] Pasion's failing health is touched upon in Or. 52 § 13 ἀδυνάτως ἤδη ἔχοντα καὶ μόγις εἰς ἄστυ ἀναβαίνοντα καὶ τὸν ὀφθαλμὸν αὐτὸν προδιδόντα, and in Or. 49 § 42 ἔλεγεν ἀρρωστῶν ὅ τι ὀφείλοιτο αὐτῷ ἕκαστον.

μαρτυρίας ... παρ᾽ οἷς] = μ. τούτων τῶν μαρτύρων παρ᾽ οἷς (cf. Or. 30 § 24 τὰς μαρτυρίας ὧν ἐναντίον

ΔΙΑΘΗΚΗ[p]. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ. 8

Ἐπειδὴ τοίνυν ὁ Πασίων ἐτετελευτήκει ταῦτα διαθέμενος, Φορμίων οὑτοσὶ τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπευεν. ἁρπάζοντος δὲ τούτου καὶ πολλὰ ἀπὸ κοινῶν [ὄντων][q]

[p] Bekk. ἀντίγραφον Z *cum* SrA.

[q] *om.* Bl. *cum* FQ; *cf. infra et* § 39.

ἀπεκρίναντο), 'the depositions of the persons to whose keeping the will has been entrusted' (cf. Isaeus 6 §§ 7, 27; 7 § 1; 9 §§ 5, 6, 18). In times when there were no probate-courts, it is obvious that the greatest precautions had to be taken to prevent forgeries by interested parties. In Or. 45 § 19 one Cephisophon deposes that his father had left behind him at his death, a document endorsed 'Pasion's Will,' which Apollodorus (*ib.* §§ 5, 22) denounces as a forgery (οὐδεπώποτε γενομένη...κατεσκευασμένη). The alleged terms are given *ib.* § 28, quoted in part in ὑπόθεσις l. 6 n. The plural παρ' οἷς is inaccurate, as the will appears to have been in the custody of a single person only.

Probably the only instances we have of a will being in *official* custody are (1) Isaeus 1 §§ 14, 15, 25, where it is in the hands of one of the ἀστυνόμοι, and (2) an inscription from Amorgos (*C. I. G.* 2264 u), κατὰ τὰς διαθήκας τὰς κειμένας ἐν ἱερῷ τῆς Ἀφροδίτης καὶ παρ' Εὐνομίδῃ τῷ ἄρχοντι καὶ παρὰ τῷ θεσμοθέτῃ Κτησιφῶντι (Meier and Schömann, p. 52, note 31 ed. Lipsius).

8. πρόκλησις] To establish Pasion's will, Stephanus and two others deposed that they were present when Phormion challenged Apollodorus to open the will, and that the latter refused. In Or. 45 Apollodorus sues Stephanus for having given false evidence in the present case and discusses this challenge in §§ 8—19, denying that any such challenge ever took place or that his father left such a will.

Πασίων ἐτετελευτήκει] Or. 46 § 13 ἐτελεύτησεν ἐπὶ Δυσνικήτου ἄρχοντος (B.C. 370).

τὴν γυναῖκα λαμβάνει κ.τ.λ.] Similarly the father of Dem. left Aphobus guardian of his children, and gave him his widow with a marriage-portion and the use of his house and furniture (Or. 27 § 5). The object of such legacies was to secure a faithful performance of the guardian's trust by connecting him more closely with the family of his ward (cf. 58 § 31). Diogenes Laertius, I 56, quotes a law, perhaps wrongly ascribed to Solon, τὸν ἐπίτροπον τῇ ὀρφανῶν μητρὶ μὴ συνοικεῖν. (Hermann, *Privatalt.* § 57, 16 = p. 15^4 of *Rechtsalt.* Thalheim.)

τὸν παῖδα] i.e. Pasicles, who was a minor for 8 years (B.C. 370—362), as appears by comparing § 10 with § 37. He was probably 8 or 10 years old when his father died; his elder brother was 24 (inf. § 22).

τούτου] The claimant Apollodorus, whom the orator purposely represents as thriftless and unscrupulous at the very first.

τῶν χρημάτων ἀναλίσκειν οἰομένου δεῖν, λογιζόμενοι
πρὸς ἑαυτοὺς οἱ ἐπίτροποι, ὅτι, εἰ δεήσει κατὰ τὰς
διαθήκας, ὅσ᾽ ἂν οὗτος ἐκ κοινῶν τῶν χρημάτων
ἀναλώσῃ, τούτοις[r] ἐξελόντας ἀντιμοιρεὶ[s] τὰ λοιπὰ
νέμειν, οὐδ᾽ ὁτιοῦν ἔσται περιόν, νείμασθαι τὰ ὄνθ᾽ 947
9 ὑπὲρ τοῦ παιδὸς ἔγνωσαν. καὶ νέμονται τὴν ἄλλην

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[r] *τούτους* Z, Bekk. st. et Dind. *cum* S. *τούτοις* Reiske, Bekk., Bl.

[s] Bekk. st. et Voemel. *ἀντιμοιρει* (*sine accentu*) S, *ἀντιμοιρεῖ* (*sic*) FQ. *τὰς ἀντιμοιρίας* Reiske et Bekk. 1824 *cum* Ar.

λογιζόμενοι] 'The guardians, calculating among themselves, that if, by the terms of the will, it proved necessary to subtract an equivalent to all that the plaintiff should have spent out of the *common* fund, and then divide the remainder, there would be no surplus whatever, decided in behalf of their ward on an immediate division of the property.'

κατὰ τὰς διαθήκας] goes with *ἐξελόντας* alone, and not with *τὰ λοιπὰ νέμειν*. The partition of the property was sufficiently provided for by the *law*, *ἅπαντας τοὺς γνησίους ἰσομοίρους εἶναι τῶν πατρῴων* (Isaeus 6 § 25), and did not require to be directed by the *will*. It may be presumed that the will provided for making payments out of the estate previous to the legal partition of the property.

κοινῶν τῶν χρημάτων] *κοινῶν*, predicative; while yet undivided and belonging to both alike.

ἀντιμοιρεί] 'Share for share,' cf. § 32 *τὰ μητρῷα πρὸς μέρος ἠξίους νέμεσθαι*. The adverb does not appear to occur elsewhere, and its form is suspiciously like the late Greek words *ἀνωνυμεί*, *αὐτολεξεί*, *αὐτοψεί*, *παμπληθεί*, *πανεθνεί*. In earlier Greek almost the only instances found are *αὐτοβοεί* (Thuc.) and *πανδημεί* (Thuc. Andoc. Lys. Isocr.). For some others see Kühner-Blass, *Gr. Gr.*, I 2, p. 303.

[A more probable reading would be *τούτοις ἐξελόντας ἀντιμοιρίας*, 'taking out (and laying aside for the minor) equal sums to those taken on each occasion out of the general property by Apollodorus.' The syntax *ἀντιμοιρεὶ νέμειν* seems unnatural, to say nothing of the form of the adverb; and *ἐξελόντας* seems to require a definite accusative. P.] Blass prefers *τούτοις* (neut. referring to *ὅσα*) and takes *ἀντιμοιρεὶ* with *ἐξελόντας*.

νέμειν...νέμονται] Donaldson, *Gk. Gr.* p. 450, observes that *νέμειν* is here used 'of a distribution of property by executors; though we have immediately afterwards, *νέμονται τὴν ἄλλην οὐσίαν*, because the obligation to divide, under the will, stands in a certain opposition to the act of division, which the executors performed with the same amount of care and interest as if they had divided the property among themselves...Afterwards we have (§ 10) *ἐνείμαθ᾽ οὗτος πρὸς τὸν ἀδελφόν*, of one of the parties immediately interested.' For *νέμεσθαι* used in the middle voice

οὐσίαν πλὴν ὧν ἐμεμίσθωθ' οὑτοσί· τούτων δὲ τῆς προσόδου τὴν ἡμίσειαν τούτῳ ἀπεδίδοσαν. ἄχρι μὲν οὖν τούτου τοῦ χρόνου πῶς ἔνεστ' ἐγκαλεῖν αὐτῷ μισθώσεως; οὐ γὰρ νῦν, ἀλλὰ τότ' εὐθὺς ἔδει χαλεπαίνοντα φαίνεσθαι. καὶ μὴν οὐδὲ τὰς ἐπιγιγνομένας[t] *μισθώσεις ὡς οὐκ ἀπείληφεν ἔστ' εἰπεῖν αὐτῷ. οὐ γὰρ ἄν ποτ', ἐπειδὴ δοκιμασθέντος Πασικλέους ἀπηλλάττετο τῆς μισθώσεως ὅδε, ἀφήκατ' ἂν αὐτὸν ἁπάντων τῶν ἐγκλημάτων, ἀλλὰ τότ' ἂν παραχρῆμα ἀπῃτεῖτ', εἴ τι προσώφειλεν ὑμῖν. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, καὶ ἐνείμαθ' οὗτος πρὸς τὸν ἀδελφὸν παῖδ' ὄντα, καὶ ἀφῆκαν τῆς μισθώσεως καὶ τῶν*

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[t] Z et Voemel *cum* SFQ. *ἐπιγεν-* Bekk. Dind.

generally (but not always) of the heirs, cf. §§ 11, 32, 38, Or. 39 § 6 *τὸ τρίτον νείμασθαι μέρος*, 47 § 35 *νενεμημένος εἴη (τὴν οὐσίαν πρὸς τὸν ἀδελφόν)*, Lysias 16 § 10; 19 § 46; 32 § 4; Isaeus 1 § 16 *οἱ τούτων φίλοι...ἠξίουν νείμασθαι τὴν οὐσίαν*; 7 §§ 5, 25. The active *διένειμεν* is applied to the father dividing his property among his sons in Or. 43, Macart. § 49 (followed by *νειμάμενοι*, of the sons) and in Lysias 19 § 46.

νείμασθαι] The subject is not the 'brothers,' but the 'guardians,' as is clear from the subsequent verbs *νέμονται* and *ἀπεδίδοσαν*.

9. *ἀπεδίδοσαν*] The guardians paid Apollodorus the share due to him, viz. half the rent of the bank and shield-manufactory. *ἀποδιδόναι* is 'to pay a man *his due*,' as in Isaeus 5 § 21 *οἷς ἔδει αὐτὸν ἀποδόντα τὴν τιμήν, ἡμῖν τὰ μέρη ἀποδοῦναι*, and frag. 29 *ἀποδεδωκότι τὰς μισθώσεις*. Cf. Or. 41 § 9 *τὴν τιμήν*; 34 § 13 *δάνειον*; 15 § 17 *χάριν*; 16 § 2 *εὔνοιαν*. See note on 53 § 10.

ἄχρι μὲν οὖν κ.τ.λ.] 'Down to this date, then, there is not the slightest claim against Phormion in respect of the lease.' For the rather rare construction of *ἐγκαλεῖν* c. gen. cf. Or. 54 § 2 and Plut. Arist. 10, 9 *τῆς βραδυτῆτος αὐτοῖς ἐνεκάλει*. In § 12 we have *ἐγκαλοῦντ' ἀφορμήν*.

μισθώσεως, 'lease'; *μισθώσεις*, 'rents.' Cf. § 33 n.

10. *δοκιμασθέντος*] The *δοκιμασία* (see *Dict. Antiq.*) took place on 'coming of age,' usually at 18. Aristotle's *Constitution of Athens*, 42 § 1 *ἐγγράφονται δ' εἰς τοὺς δημότας ὀκτωκαίδεκα ἔτη γεγονότες.* § 2 *μετὰ δὲ ταῦτα δοκιμάζει τοὺς ἐγγραφέντας ἡ βουλή.*

ἀφήκατ'...ἀφῆκαν] The forms *ἀφήκατε* and *ἀφῆκαν* and *παρέδωκαν* §§ 14, 44 are rather unusual. But Isaeus 5 § 1 has *ἀφήκαμεν*; Dem. 38 § 18, 27 § 3, Dinarch. 1 § 57, Aeschin. 3 § 85, *ἀφήκατε*; Thuc. 7, 19, 4 *ἀφῆκαν*. Attic writers, however, prefer in the plural the inflexion of the *ἄλλων ἁπάντων ἐγκλημάτων, λαβὲ ταυτηνὶ τὴν μαρτυρίαν.*

ΜΑΡΤΥΡΙΑ.

11 *Εὐθὺς τοίνυν ὦ ἄνδρες Ἀθηναῖοι, ὡς ἀφεῖσαν τουτονὶ τῆς μισθώσεως, νέμονται τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγεῖον, καὶ λαβὼν αἵρεσιν Ἀπολλόδωρος αἱρεῖται τὸ ἀσπιδοπηγεῖον ἀντὶ τῆς τραπέζης. καίτοι εἰ ἦν ἰδία*[u] *τις ἀφορμὴ τουτῳὶ*[e] *πρὸς τῇ τραπέζῃ, τί δή ποτ᾽ ἂν εἵλετο τοῦτο μᾶλλον ἢ ἐκείνην; οὔτε γὰρ ἡ πρόσοδος [ἦν]*[v] *πλείων, ἀλλ᾽ ἐλάττων (τὸ μὲν γὰρ τάλαντον, ἡ δ᾽ ἑκατὸν μνᾶς ἔφερεν), οὔτε τὸ κτῆμ᾽ ἥδιον*[w]*, εἰ προσῆν χρήματα τῇ τραπέζῃ [ἴδια]*[x]*. ἀλλ᾽ οὐ προσῆν. διόπερ σωφρονῶν εἵλετο τὸ ἀσπιδο-*

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[u] *καὶ* Voemel *cum* S. [v] *propter syllabas breves antecedentes secl.* Bl. [w] Wolf. *ἡδεῖον* Ar, *ἴδιον* FSQ. [x] *propter hiatum secl.* Bl.

second aorist, *ἀφεῖμεν, ἀφεῖτε* and (as in §§ 11, 14) *ἀφεῖσαν*. See Veitch's *Greek Verbs* and Kühner-Blass, *Gr. Gr.* I 2, pp. 196, 214.

The two brothers Apollodorus and Pasicles are directly addressed in *ἀφήκατε*, not the jury, as is shown by *ἀπῃτεῖτε* following.

ἀφῆκαν τῆς μισθώσεως κ.τ.λ.] Or. 45 § 5 *μάρτυρας ὡς ἀφῆκα αὐτὸν τῶν ἐγκλημάτων παρέσχετο ψευδεῖς, καὶ μισθώσεώς τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενομένης.*

11. *αἵρεσιν*] The choice lay with him by virtue of being the elder brother (§ 34).

καίτοι κ.τ.λ.] Phormion argues that if the plaintiff had had any private capital of his own in the bank, he would have chosen the banking-business in preference to the manufactory. He did not, and therefore he contends there was no such fund.—*ἰδία ἀφορμὴ* is private banking-stock, as opposed to deposits, *παρακαταθῆκαι* (cf. § 11).—*τάλαντον* = 60 minae.

τὸ μὲν γὰρ—ἀλλοτρίων] 'For the manufactory is a property free from risk, whereas the bank is a business yielding a hazardous (speculative, precarious) revenue from other people's money.' The bank was not a *κτῆμα*, but only an *ἐργασία*, not a secure property, but a precarious trading with other people's money.

ἥδιον] The labour and trouble and other disagreeable incidents of manufacturing shields made such a property less desirable in itself than a banking business. But the bank business was speculative, and involved the risk of losing the deposits, and therefore the manufactory, with all its drawbacks, was preferred by Apollodorus, as being at least safe. P.]

948 πηγεῖον[y]· τὸ μὲν γὰρ κτῆμ' ἀκίνδυνόν ἐστιν, ἡ δ' ἐργασία προσόδους ἔχουσ' ἐπικινδύνους ἀπὸ χρημάτων ἀλλοτρίων.

Πολλὰ δ' ἄν τις ἔχοι λέγειν καὶ ἐπιδεικνύναι 12 σημεῖα τοῦ τοῦτον συκοφαντεῖν ἐγκαλοῦντ' ἀφορμήν. ἀλλ', οἶμαι, μέγιστον μέν ἐστιν ἁπάντων τεκμήριον τοῦ μηδεμίαν λαβεῖν ἀφορμὴν εἰς ταῦτα τουτονὶ τὸ ἐν τῇ μισθώσει γεγράφθαι προσοφείλοντα τὸν Πασίων' ἐπὶ τὴν τράπεζαν, οὐ δεδωκότ' ἀφορμὴν τουτῳί[e], δεύτερον δὲ τὸ[z] τοῦτον ἐν τῇ νομῇ μηδὲν[a] ἐγκαλοῦντα

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[y] + οὗτος Bekk. Z et Voemel *cum* S. + οὑτοσί Dind. *om.* Bl. *cum* rA *coll.* § 13 *extr.* [z] *om.* Z *cum* SQ. τὸ Bekk. *cum marg.* S.

[a] μηδὲ S, μηδ' Voemel. '*quidni* μηδὲ *ante verba* ἐν τῇ νομῇ *positum esse malis? at* μηδὲν *intellegendum est* μηδεμίαν ἀφορμήν' Huettner.

§§ 12—17. *The plaintiff's claim to a sum of banking-stock alleged to have been held by the defendant may be proved groundless by many arguments:* (1) *Plaintiff's father is entered in the lease, not as creditor on account of banking-stock assigned to defendant, but actually as debtor to the bank.* (2) *On the partition of the property, plaintiff put in no claim to such stock.* (3) *After the termination of defendant's lease of the bank, plaintiff let it to others for the same sum and no less; and did not specially transfer to them any banking-stock besides.* (4) *The plaintiff during the life of his mother, who was perfectly familiar with all these details, made no demand on the defendant; it was only when she died that he set up a fraudulent claim, not for any banking-stock as now, but for a sum of* 3000 *dr. The claim was submitted to the arbitration of some relatives of the plaintiff, and upon their award the defendant for peace and quietness' sake paid the money and a second time received from the plaintiff a release from all his claims.*

12. πολλὰ—ἐπιδεικνύναι] Or. 20 § 163 πολλὰ δ' ἄν τις ἔχοι λέγειν ἔτι καὶ διεξιέναι.

σημεῖα...τεκμήριον] Or. 54 § 9.

συκοφαντεῖν κ.τ.λ.] Kennedy: 'This claim of the plaintiff's to a sum of banking-stock is false and fraudulent.' — ἐγκαλοῦντ' ἀφορμήν, the first distinct reference in the speech to the nature of the plaintiff's case. He alleges that the defendant had a grant of capital from Pasion and had appropriated it.

τουτονὶ...τουτῳί...τοῦτον] The first two refer to the defendant, the third to the plaintiff, Apollodorus. The ambiguity arising from a similar pronoun being applied to two different persons, would be readily dispelled by the orator's delivery. Cf. § 42 n.

προσοφείλοντα] sc. 11 talents, §§ 4—6.—τῇ νομῇ, § 8 fin.

*φαίνεσθαι, τρίτον δ', ὅτι μισθῶν ἑτέροις ὕστερον
ταὐτὰ ταῦτα τοῦ ἴσου ἀργυρίου*[b]*, οὐ φανήσεται προσ-*
13 *μεμισθωκὼς ἰδίαν ἀφορμήν. καίτοι εἰ, ἣν ὁ πατὴρ
παρέσχεν, ὑπὸ τοῦδ' ἀπεστερεῖτο*[c]*, αὐτὸν νῦν προσῆ-
κεν ἐκείνοις*[d] *ἄλλοθεν πορίσαντα δεδωκέναι. ὡς
τοίνυν ταῦτ' ἀληθῆ λέγω, καὶ ἐμίσθωσεν ὕστερον
Ξένωνι καὶ Εὐφραίῳ καὶ Εὔφρονι καὶ Καλλιστράτῳ,
καὶ οὐδὲ τούτοις παρέδωκεν ἰδίαν ἀφορμήν, ἀλλὰ τὰς
παρακαταθήκας καὶ τὴν ἀπὸ τούτων ἐργασίαν αὐτὴν*

[b] *ἀργυρίου propter hiatum secl.* Bl., *qui etiam τοῦ ἴσου cum* § 37 *pugnare putat et in* § 13 *abesse animadvertit.*

[c] *ἀπεστέρητο G. H. Schaefer* (Dind.). *ἀπεστερειτο* S (Bl., *coll.* § 36; 37 § 35; 38 § 20). *ἀποστεροῖτο* FQ, *ἀπεστεροῖτο* Voemel.

[d] *om.* Bl. *cum* FQ.

μισθῶν ἑτέροις κ.τ.λ.] i.e. to Xenon and the others in § 13. The argument is: assume the defendant defrauded the plaintiff of bank-stock amounting to 20 talents. Then the stock in question could not have formed part of the business when the plaintiff let it to the later lessees. The plaintiff then should either have let it to them at *lower* terms than to the defendant, or have handed over to the bank an equivalent to the stock alleged to be missing. He did neither; he made no fresh transfer and he charged them the same rent. Therefore the property must have been in the same condition as when the defendant originally leased it from the plaintiff's father.—The context compels us to make Apollodorus the subject of the sentence *μισθῶν—φανήσεται*, but the bank, it will be remembered, became the property not of Apollodorus, but of Pasicles, when the latter came of age and Phormion's lease expired; we must therefore conclude that the elder brother acted as agent on behalf of his less experienced younger brother.

τοῦ ἴσου ἀργυρίου] viz. 2^{t} 40^{m} for the whole business, 1^{t} for the shield-manufactory, and 1^{t} 40^{m} (= 100^{m}) for the bank (cf. § 11). It has been suggested that *τοῦ ἴσου ἀργυρίου* is a false statement, but a careful consideration of §§ 11 and 37 shows that this is not the case.

13. *τοῦδε...αὐτὸν*] Defendant and plaintiff respectively.—*νῦν* 'in *that* case,' referring to the hypothesis *εἰ — ἀπεστερεῖτο.* — *αὐτὸν*, standing first in the clause, must mean *ipsum.*

The sense is: 'Surely, if Apollodorus had been defrauded by Phormion of capital supplied by Pasion, he would *himself* (on *that* supposition) have had to provide capital from other sources, and deliver it to those new lessees.' Otherwise, he could not have got the same amount of rent.

ἐμισθώσαντο, λαβέ μοι τὴν τούτων μαρτυρίαν, καὶ ὡς τὸ ἀσπιδοπηγεῖον εἵλετο[e].

ΜΑΡΤΥΡΙΑ.

14 Μεμαρτύρηται μὲν τοίνυν[f] ὑμῖν ὦ ἄνδρες Ἀθηναῖοι,
ὅτι καὶ τούτοις ἐμίσθωσαν καὶ οὐ παρέδωκαν
ἰδίαν ἀφορμὴν οὐδεμίαν, καὶ ἐλευθέρους τ'[g] ἀφεῖσαν
ὡς μεγάλ' εὖ πεπονθότες, καὶ οὐκ ἐδικάζοντ' οὔτ'
ἐκείνοις τότ' οὔτε τούτῳ. ὃν μὲν τοίνυν χρόνον ἡ
μήτηρ ἔζη ἡ πάντ' ἀκριβῶς εἰδυῖα[h], οὐδὲν ἔγκλημα
πώποτ' ἐποιήσατο πρὸς τουτονὶ Φορμίων' Ἀπολλόδωρος·
949 ὡς δ' ἐτελεύτησεν ἐκείνη, τρισχιλίας ἐγκαλέσας

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[e] καὶ ὡς—εἵλετο *delenda esse censuit G. H. Schaefer ab Huettnero approbatus.*

[f] μὲν τοίνυν] μέντοι A, μὲν *mavult* Bl. [g] *add.* Bl. *cum* FQ.

[h] ἀκριβῶς ταῦτ' εἰδυῖα Z *et* Voemel *cum* S. ἀκριβῶς εἰδυῖα ταῦτα FQ. ταῦτ' ἀκριβῶς εἰδυῖα Bekk. Dind. ταῦτα *om.* Bl.

ἐμίσθωσεν] Granted the lease (on behalf of Pasicles). Below we have *ἐμισθώσαντο*, referring, as usual, to the lessees.

αὐτὴν] 'Alone'; explained by *οὐ παρέδωκαν ἰδίαν ἀφορμήν*.

14. *ἐμίσθωσαν ... παρέδωκαν*] The plurals refer to the two brothers. For *παρέδωκαν* cf. § 10 on *ἀφῆκαν*.

ἐλευθέρους τ' ἀφεῖσαν] Or. 29 §§ 25, 31 *τὸν Μιλύαν ἐλεύθερον εἶναι ἀφεθέντα*, 47 § 55 *ἀφειμένη ἐλευθέρα...ἀφείθη ἐλευθέρα*, § 72 *ἀφεῖτο...ἐλευθέρα*. Xenon, Euphraeus and the other lessees appear (like Phormion) to have been slaves originally. The family show their gratitude for their services by *giving them freedom* (*ὡς μεγάλ' εὖ πεπονθότες*). It is so translated by M. Dareste. G. H. Schaefer and C. R. Kennedy (perhaps less satisfactorily) understand the words: 'set free from all further claims'; 'gave them a complete discharge': a sense which is at first sight partly supported by *καὶ οὐκ ἐδικάζοντο* below.

ὡς ἐτελεύτησεν] The speaker insinuates that Apoll. purposely waited till his mother's death, as her familiarity with all the details of her late husband's property would have thwarted his plots against Phormion. Her death is described by Apollodorus in Or. 50 § 60, 'While I was abroad my mother lay ill and was at death's door, and therefore little able to help in retrieving my affairs. It was just six days after my return that, when she had seen me and spoken to me, she breathed her last, when she no longer had such control over her property as to be able to give me all that she desired.' The death took place in Feb. B.C. 360.

ἀργυρίου δραχμὰς πρὸς αἷς ἔδωκεν ἐκείνη δισχιλίαις
τοῖς τούτου παιδίοις, καὶ χιτωνίσκον τινὰ καὶ θερά-
15 παιναν, ἐσυκοφάντει. καὶ οὐδ' ἐνταῦθα τούτων οὐδὲν
ὧν νῦν ἐγκαλεῖ λέγων φανήσεται. ἐπιτρέψας δὲ τῷ
τε τῆς ἑαυτοῦ γυναικὸς πατρὶ καὶ τῷ συγκηδεστῇ τῷ
αὑτοῦ[i] καὶ Λυσίνῳ καὶ Ἀνδρομένει, πεισάντων τού-
των Φορμίωνα τουτονὶ δοῦναι δωρειὰν[j] τὰς τρισχι-
λίας καὶ τὸ προσόν, καὶ φίλον μᾶλλον ἔχειν τοῦτον
ἢ διὰ ταῦτ' ἐχθρὸν εἶναι[jj], λαβὼν τὸ σύμπαν πεντα-
κισχιλίας, καὶ πάντων ἀφεὶς τῶν ἐγκλημάτων τὸ

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[i] ἑαυτοῦ Z.

[j] δωρεὰν *codices*; δωρειὰν Bl. *Atheniensium lapides inscriptos secutus.* [jj] αὐτὸν εἶναι S (Dind.); εἶναι αὐτὸν Ar.; *om.* Bl.

πρὸς αἷς] She had left Phormion's children 2000 drachmas, but Apollodorus claims more than that sum also as his own. His avaricious and mean character is shown by his claim to a χιτωνίσκος, a chemise or 'slave's frock,' perhaps. A man who would make such demands was little likely to omit his present claims, if he had then believed in the justice of them. P.]

χιτωνίσκον] Or. 21 § 216 θοἰμάτιον προέσθαι καὶ μικροῦ γυμνὸν ἐν τῷ χιτωνίσκῳ γενέσθαι.

15. ἐπιτρέψας κ.τ.λ.] The plaintiff submitted the claims to the private arbitration of Deinias and Nicias (§ 17), his own father-in-law and brother-in-law respectively. Pollux: ἔλεγον δὲ ἐπιτρέψαι δίαιταν, καὶ ἡ δίαιτα ἐκαλεῖτο ἐπιτροπή.

δοῦναι δωρειὰν] By 'making a present' of the 3000 drachmae, Phormion satisfies Apollodorus without admitting his legal claim to the sum. Or. 19 § 170; 42 § 19; Isaeus 2 § 31 διήτησαν ἡμᾶς ἀποστῆναι ὧν οὗτος ἀμφισβήτησε καὶ δοῦναι δωρειάν· οὐ γὰρ ἔφασαν εἶναι ἄλλην ἀπαλλαγὴν οὐδεμίαν, εἰ μὴ μεταλήψονται οὗτοι τῶν ἐκείνου.

δωρειὰ is the form found in inscriptions before and during the time of Dem. δωρεὰ is first found as early as 403 B.C. (see note on Dem. *Lept.* § 2).

τὸ προσὸν] Not the 2000 drachmae of § 14; for they were already given by the mother (ἔδωκεν ἐκείνη), but the 'additional articles' χιτωνίσκος καὶ θεράπαινα. [τὸ προσὸν may however refer to πρὸς αἷς κ.τ.λ. supra. He got the 3000 and the 2000 also that had been left to Phormion's boys. He got from him 5000 in all, and gave him a full release from all further claims; and yet now again he says Phormion has kept back some of Pasion's money! But (he argues) the discharge then given justifies the παραγραφὴ now put in. P.]

ἀφεὶς...τὸ δεύτερον] The former release is mentioned in § 10 fin. This second release is solemnly given in the temple of

16 δεύτερον εἰς τὸ ἱερὸν τῆς Ἀθηνᾶς ἐλθών, πάλιν, ὡς ὁρᾶτε, δικάζεται, πάσας αἰτίας συμπλάσας καὶ ἐγκλήματ' ἐκ παντὸς τοῦ χρόνου τοῦ πρὸ τούτου (τοῦτο γάρ ἐστι μέγιστον ἁπάντων), ἃ οὐδεπώποτ' ᾐτιάσατο. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, λαβέ μοι τὴν γνῶσιν τὴν γενομένην ἐν ἀκροπόλει, καὶ τὴν μαρτυρίαν τῶν παραγενομένων, ὅτ' ἠφίει[k] τῶν ἐγκλημάτων ἁπάντων Ἀπολλόδωρος, λαμβάνων τοῦτο τὸ ἀργύριον.

ΓΝΩΣΙΣ. ΜΑΡΤΥΡΙΑ.

17 Ἀκούετε τῆς γνώσεως ὦ ἄνδρες δικασταί, ἣν ἔγνω Δεινίας, οὗ τὴν θυγατέρ' οὗτος ἔχει, καὶ Νικίας ὁ τὴν ἀδελφὴν τῆς τούτου γυναικὸς ἔχων. ταῦτα τοίνυν λαβὼν καὶ ἀφεὶς ἁπάντων τῶν ἐγκλημάτων, ὥσπερ ἢ πάντων τεθνεώτων τούτων ἢ τῆς ἀληθείας οὐ γενησομένης φανερᾶς, δίκην τοσούτων ταλάντων λαχὼν τολμᾷ δικάζεσθαι.

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[k] ἀφίει Z cum S. $\overset{\text{ἡ}}{\text{ἀφίει}}$ F. '*codices modo hoc modo illud exhibent; vid. Dind. ad* 21 § 79, 36 § 24; *Rehdantz, ad* 3 § 5,' Huettner; *edidit* Bl. ἀφίει 6 § 20; ἠφίει 18 § 218, 25 § 38, 36 §§ 16, 24; ἠφίετε 23 § 188; ἠφίεσαν 21 § 79.

Athênâ on the Acropolis. Isocr. Trapez. § 20 *ταῦτα συγγράψαντες καὶ ἀναγαγόντες εἰς ἀκρόπολιν Πύρωνα......δίδομεν αὐτῷ φυλάττειν τὰς συνθήκας*, ib. 17 and Andoc. 1 § 42. Or. 33 § 18 *ἀπαντήσας εἰς τὸ Ἡφαιστεῖον*.

16. *συμπλάσας*] 'Having concocted,' 'fabricated,' 'patched up,' 'put into shape.' Aeschin. 3 § 77 *τῶν θεῶν συμπλάσας ἑαυτῷ ἐνύπνιον κατεψεύσατο*. The metaphor (as in the words *feigning* and *fiction*) is from the moulding of clay in the hands of the potter. Cf. § 33 *πλάσμα*.

τὴν γνῶσιν] 'The award' of the arbitrators. Or. 27 § 1 *τοῖς οἰκείοις ἐπιτρέπειν* and *τοῖς ὑπ' ἐκείνων γνωσθεῖσιν ἐμμένειν*. Cf. § 17.—*ἐν ἀκροπόλει*. So supra *τὸ ἱερὸν τῆς Ἀθηνᾶς*. Pollux, *διῃτῶν δ' ἐν ἱεροῖς* (VIII 126). Or. 59 § 46 (of two arbitrators) *συνελθόντες ἐν τῷ ἱερῷ*, and Or. 54 § 26, *τὸν λίθον*, n.

λαμβάνων] 'On the receipt of this money,' viz. the 5000 drachmae.

17. *τούτων*] *τῶν μαρτύρων τῶν παραγενομένων*, § 16.

τοσούτων ταλ.] § 3 *ταλάντων εἴκοσι*.

τολμᾷ] It was acting in open defiance of the law to bring an action after a full acquittance had been given.

18 Τὰ μὲν οὖν πεπραγμένα καὶ γεγενημένα Φορμίωνι
πρὸς Ἀπολλόδωρον ἐξ ἀρχῆς ἅπαντ᾽ ἀκηκόατ᾽ ὦ
ἄνδρες Ἀθηναῖοι. οἶμαι[1] δ᾽ Ἀπολλόδωρον τουτονὶ 950
οὐδὲν ἔχοντα δίκαιον εἰπεῖν περὶ ὧν ἐγκαλεῖ, ἅπερ
παρὰ τῷ διαιτητῇ λέγειν ἐτόλμα, ταῦτ᾽ ἐρεῖν, ὡς τὰ
γράμμαθ᾽ ἡ μήτηρ ἠφάνικε πεισθεῖσ᾽ ὑπὸ τούτου, καὶ
τούτων ἀπολωλότων οὐκ ἔχει τίνα χρὴ τρόπον ταῦτ᾽
19 ἐξελέγχειν ἀκριβῶς. περὶ δὴ τούτων καὶ ταύτης τῆς
αἰτίας σκέψασθ᾽ ἡλίκ᾽ ἄν τις ἔχοι τεκμήρι᾽ εἰπεῖν
ὅτι ψεύδεται. πρῶτον μὲν γὰρ ὦ ἄνδρες Ἀθηναῖοι,
τίς ἐνείματ᾽ ἂν[m] τὰ πατρῷα μὴ λαβὼν γράμματα, ἐξ ὧν

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[1] S. *οἴομαι* Z (v. Veitch, *Gk. Vbs.*, Voemel, *Proleg. Gram.* § 128, *et* Dind. *Praef.* p. xiii).

[m] *ἂν ἐνείματο syllabis brevibus bis iteratis codices; ἐνείματ᾽ ἂν* Bl.

§§ 18—21. Anticipation of the arguments likely to be brought forward by the plaintiff. *He will repeat what he stated before the arbitrator, that his mother destroyed his father's papers at the defendant's instigation. If so* (1) *how came the plaintiff to make a partition of his patrimony, without any papers to determine its amount? Unless those claims were false and fraudulent, which the plaintiff will scarcely admit, he* must *have gained possession of his father's papers, and his mother could not have made away with them.* (2) *Why was no question raised when the plaintiff's younger brother came of age and was receiving from his guardians an account of their trust?* (3) *On what papers did the plaintiff base all his many law-suits for the recovery of large sums due to his father?*

18. *τὰ μὲν οὖν κ.τ.λ.*] Transition from the *διήγησις* or *πρόθεσις* to the *πίστεις* or 'proofs' (Ar. Rhet. III 13), from the brief recital of the transactions between plaintiff and defendant (§§ 4—17) to the legal and other arguments.

τῷ διαιτητῇ] Pollux VIII 126 *πάλαι δ᾽ οὐδεμία* (?) *δίκη πρὶν ἐπὶ διαιτητὰς ἐλθεῖν εἰσήγετο.* Cf. 54 § 26, *ἡ δίαιτα* n.

τὰ γράμματα] Not Pasion's will, but his private papers and ledgers or banking-books, *τὰ γράμματα τὰ τραπεζιτικά* (Or. 49 §§ 43, 59 quoted below in note on § 21, *ἐκ ποίων γραμμάτων*). Cf. Or. 49 § 5 *οἱ τραπεζῖται εἰώθασιν ὑπομνήματα γράφεσθαι ὧν τε διδόασι χρημάτων, κ.τ.λ.* and Or. 52 § 4.

ἠφάνικε] Cf. § 20 *διεφθαρκέναι.*

19. *ἐνείματ᾽ ἂν*] 'Who would have taken his share of his father's property, if he had not the books from which alone he could know the amount of property left?' He refers to the

ἔμελλεν[n] εἴσεσθαι τὴν καταλειφθεῖσαν οὐσίαν; οὐδὲ
εἷς δήπου. καίτοι δυοῖν δέοντ' εἴκοσιν ἔτη ἐστὶν ἐξ
ὅτου ἐνείμω, καὶ οὐκ ἂν ἔχοις ἐπιδεῖξαι, ὡς ἐνεκάλεσας
πώποθ' ὑπὲρ τῶν γραμμάτων. δεύτερον δέ, τίς οὐκ 20
ἄν, ἡνίκα Πασικλῆς[o] ἀνὴρ γεγονὼς ἐκομίζετο τὸν
λόγον τῆς ἐπιτροπῆς, εἰ δι' αὑτοῦ τὰ γράμματ' ὤκνει
τὴν μητέρ' αἰτιᾶσθαι διεφθαρκέναι, τούτῳ ταῦτ' ἐδή-
λωσεν, ὅπως διὰ τούτου ταῦτ' ἠλέγχθη; τρίτον δ', ἐκ
ποίων γραμμάτων τὰς δίκας ἐλάγχανες; οὗτος γὰρ
πολλοῖς τῶν πολιτῶν δίκας λαγχάνων πολλὰ χρή-
ματ' εἰσπέπρακται, γράφων εἰς τὰ ἐγκλήματα "ἔ-

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[n] ἤμελλεν Z *cum* S.

[o] FQ (Bl.). ὁ Π. *ceteri.*

division of the patrimony decided on by the guardians in consequence of the elder brother spending largely out of the common fund, § 8 fin. This event took place eighteen years before the date of the speech; which, if we could assume that the partition was in the same year as the father's death, viz. 370, would belong to B.C. 352. This however we cannot assume, indeed the language of § 8, πολλὰ ἀναλίσκειν, κ.τ.λ., implies that the elder brother's course of extravagance lasted some time before the partition was decided on. We may therefore perhaps place the partition in B.C. 368, and the speech in B.C. 350. See *Introd.* p. xxvii f.

ἔμελλεν] used alternatively with ἤμελλεν in the Attic Orators. See Voemel, *Dem. Cont.* p. 83, Benseler's *Isocr.* I p. xxii, Veitch, *Gk. Vbs.*, and Kühner-Blass, *Gr. Gr.* I 2, 484.

ὑπὲρ τῶν γραμμάτων] sc. περὶ τῆς ἀφανίσεως αὐτῶν.

20. ἀνὴρ γεγονὼς] Cf. § 10 δοκιμασθέντος Πασικλέους.

ἐκομίζετο κ.τ.λ.] 'Was getting in an account of the guardianship,' i.e. the accounts from his guardians. Or. 27, κατ' Ἀφόβου ἐπιτροπῆς, § 50 πότερον ἐπιτροπευθεὶς ἀπεδέξατ' ἂν τοῦτον τὸν λόγον παρὰ τῶν ἐπιτρόπων;

τούτῳ...τούτου] It is best to refer these pronouns to Pasicles (with Reiske, Kennedy and Dareste); not to Apollodorus (with G. H. Schaefer). The sense is: 'Assuming Apollodorus hesitated with his own lips to accuse his mother of destroying the documents; at any rate, when Pasicles came of age and was in course of receiving the report of his guardians' administration, is there any one who, under the circumstances, would not have stated the fact to his younger brother, and by his instrumentality had the matter investigated?'

ὅπως ἠλέγχθη] inf. § 47 ἵνα, 'that so they might have been proved true or false,' &c.

πολλὰ χρήματ' εἰσπέπρακται] 'He has succeeded in recovering large sums of money.' The

“ βλαψέ μ’ ὁ δεῖν’ οὐκ ἀποδιδοὺς ἐμοὶ τὸ ἀργύριον, ὃ
“ κατέλιπεν[p] ὁ πατὴρ ὀφείλοντ’ αὐτὸν ἐν τοῖς γράμμασιν.”
21 καίτοι εἰ ἠφάνιστο τὰ γράμματα[q], ἐκ ποίων
γραμμάτων τὰς δίκας ἐλάγχανεν; ἀλλὰ μὴν ὅτι
ταῦτ’ ἀληθῆ λέγω, τὴν μὲν νομὴν ἀκηκόαθ’, ἣν ἐνείματο,
καὶ μεμαρτύρηται ὑμῖν· τῶν δε λήξεων τούτων
ἀναγνώσεται ὑμῖν[r] τὰς μαρτυρίας. λαβὲ τὰς μαρτυρίας
μοι.

ΜΑΡΤΥΡΙΑΙ.

Οὐκοῦν ἐν ταύταις ταῖς λήξεσιν ὡμολόγηκεν ἀπειληφέναι 951
τὰ τοῦ πατρὸς γράμματα· οὐ γὰρ δὴ συκοφαντεῖν
γε, οὐδ’ ὧν οὐκ ὤφειλον οὗτοι δικάζεσθαι
φήσειεν ἄν.

22 Νομίζω τοίνυν ὦ ἄνδρες Ἀθηναῖοι, μεγάλων καὶ

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[p] κατέλειπεν Z *et* Voemel *cum* S. -έλιπεν Bekk.

[q] τὸ γράμμα Voemel *cum* S.

[r] *delere vult* Bl.

famous general Timotheus, under pressure of political exigencies, in the years 374 to 372 B.C., borrowed more than forty-four minae from the banker Pasion, on whose death his son Apollodorus sues Timotheus for payment in a speech still extant, belonging probably to the year B.C. 362. (Or. 49, *πρὸς Τιμόθεον ὑπὲρ χρέως*.) Cf. infr. §§ 36 and 54.

21. *ἐκ ποίων γραμμάτων*] If there *were* no papers, then the grounds of your actions were fraudulent, *συκοφαντίαι*, inf. In Or. 49, Pasion's papers are expressly cited, e.g. § 43 *κελεύοντος ἐνεγκεῖν τὰ γράμματα ἀπὸ τῆς τραπέζης καὶ ἀντίγραφα αἰτοῦντος...ἐξενέγκας ἔδωκα ζητεῖν τὰ γράμματα καὶ ἐκγράφεσθαι ὅσα οὗτος ὤφειλεν*, and § 59 *τοῖς γράμμασι τοῖς τραπεζιτικοῖς*.

λήξεων μαρτυρίας] ‘The depositions in support of’ (or ‘verifying’) ‘these plaints.’ For *λῆξις*, cf. supr. *δίκας ἐλάγχανεν*, also Or. 45 § 50 *τῇ τοῦ διώκοντος λήξει ἣν ἐγὼ τούτῳ ψευδομαρτυριῶν εἴληχα*, 33 § 35 *ἐγκέκληκε καὶ...τὴν λῆξιν πεποίηται*, 39 § 16 *λῆξις δίκης*, 58 § 32.

§ 22. Argument from the silence of plaintiff's younger brother. *Pasicles, as a minor, had been much more liable to be wronged by the defendant, who as testamentary guardian had control over his ward's property. Pasicles makes no complaint. Therefore (it is tacitly assumed) he had no complaint to make.* A fortiori *defendant is not likely to have wronged the plaintiff, who at his father's death was a man of four and twenty, and fully able to defend himself.*

πολλῶν ὄντων ἐξ ὧν ἔστιν ἰδεῖν οὐκ ἀδικοῦντα Φορμίωνα τουτονί, μέγιστον ἁπάντων εἶναι, ὅτι Πασικλῆς, ἀδελφὸς ὢν Ἀπολλοδώρου τουτουί, οὔτε δίκην εἴληχεν οὔτ᾽ ἄλλ᾽ οὐδὲν ὧν οὗτος ἐγκαλεῖ. καίτοι οὐ δήπου τὸν μὲν παῖδ᾽ ὑπὸ τοῦ πατρὸς καταλειφθέντα, καὶ οὗ τῶν ὄντων κύριος ἦν, ἐπίτροπος καταλελειμμένος, οὐκ ἂν ἠδίκει, σὲ δέ, ὃς ἀνὴρ κατελείφθης τέτταρα καὶ εἴκοσιν ἔτη γεγονώς, καὶ ὑπὲρ σαυτοῦ ῥᾳδίως ἂν τὰ δίκαι᾽ ἐλάμβανες εὐθύς, εἴ τι ἠδικοῦ. οὐκ ἔστι ταῦτα. ὡς τοίνυν ταῦτ᾽ ἀληθῆ λέγω καὶ ὁ Πασικλῆς οὐδὲν ἐγκαλεῖ, λαβέ μοι τὴν τούτου μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

Ἃ τοίνυν ἤδη περὶ αὐτοῦ τοῦ μὴ εἰσαγώγιμον 23

Φορμίωνα τουτονὶ] *τουτονὶ* need not refer to Apollodorus, but may be taken with *Φορμίωνα*, cf. infr. *Ἀπολλοδώρου τουτουί*, and §§ 15, 18, 26, 28, 47, 57.

οὔτ᾽ ἄλλ᾽ κ.τ.λ.] sc. *οὔτε ἄλλο οὐδὲν ἐγκαλεῖ ὧν οὗτος* (*ἐγκαλεῖ*).

τὸν] Construe with *καταλειφθέντα*, *παῖδα* being a predicate.

κύριος...ἐπίτροπος] Cf. Or. 38 § 6 *τῶν ἐπιτρόπων οἳ μετὰ τὸν ἐκείνου θάνατον τῶν ἡμετέρων ἐγένοντο κύριοι*. *κύριος* here refers to the *property*, *ἐπίτροπος* to the *person* of the ward (Schömann on Isaeus I § 10).

σὲ δὲ] sc. *ἂν ἠδίκει*. Notice the double force of the negative, *οὐ δήπου οὐκ ἂν ἠδίκει*, 'Surely he would not have abstained from wronging one who had been left a minor by his father, and over whose property he had a legal power and authority, as having been left guardian of it, and yet have wronged *you*,' &c. So inf. § 46 *οὐδὲ τὸν Φορμίωνα ἐκεῖνος οὐχ ὁρᾷ*. *Expectabam, οὐ δήπου σὲ μὲν ἂν ἠδίκει, τὸν δὲ παῖδα οὔ*. Shilleto, *De Fals. Leg.* § 390, *not. crit.*

οὐδὲν ἐγκαλεῖ] 'Brings no claim against Phormion,' i.e. for property of his father's withheld. Cf. Or. 45 §§ 83, 84, where Apollodorus meets the objection arising from the silence of Pasicles by broaching a suspicion that he is his half-brother only and by insinuating he is really a son of Archippe and *Phormion*. 'Say no more, pray, of Pasicles; no! let him be called your *son*, Phormion, not your master; and my opponent (he is bent upon it)—not my brother.'

§§ 23—25. *The speaker now passes from the arguments in support of the main issue* (*or the case upon its merits*) *to those on which the defendant raises a special plea in bar of action.*

The plaintiff's case cannot come before the court because he has given the defendant a discharge from the original lease of the Bank and Manufactory, and a second discharge

εἶναι τὴν δίκην δεῖ σκοπεῖν ὑμᾶς, ταῦτ' ἀναμνήσθητ'
ἐκ τῶν εἰρημένων. ἡμεῖς γὰρ ὦ ἄνδρες Ἀθηναῖοι,
γεγενημένου μὲν διαλογισμοῦ καὶ ἀφέσεως τῆς τρα-
πέζης καὶ τοῦ ἀσπιδοπηγείου τῆς μισθώσεως, γεγενη-
μένης δὲ διαίτης καὶ πάλιν πάντων ἀφέσεως, οὐκ
ἐώντων τῶν νόμων δίκας ὧν ἂν ἀφῇ τις ἅπαξ λαγχά-
24 νειν, συκοφαντοῦντος τούτου καὶ παρὰ τοὺς νόμους
δικαζομένου παρεγραψάμεθ' ἐκ τῶν νόμων μὴ εἶναι
τὴν δίκην εἰσαγώγιμον. ἵν' οὖν εἰδῆθ'[s] ὑπὲρ οὗ τὴν
ψῆφον οἴσετε, τὸν νόμον θ'[t] ὑμῖν τοῦτον ἀναγνώσεται
καὶ τὰς μαρτυρίας ἐφεξῆς τῶν παρόντων, ὅτ' ἠφίει[u] 952
τῆς μισθώσεως καὶ τῶν ἄλλων ἁπάντων ἐγκλημάτων
Ἀπολλόδωρος[v]. λαβέ μοι τὰς μαρτυρίας ταυτασὶ
καὶ τὸν νόμον.

ΜΑΡΤΥΡΙΑΙ. ΝΟΜΟΣ.

25 Ἀκούετε τοῦ νόμου λέγοντος ὦ ἄνδρες Ἀθηναῖοι,

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[s] *ἴδητε Z cum correcto* S. *εἰδῆθ'* Bekk. *ἴδηθ'* Bekk. st.

[t] *τόν τε νόμον vulgo*; *τὸν νόμον* r; *τὸν νόμον θ' propter syllabas breves* Bl.

[u] *ἀφίει Z cum* SA (cf. § 16).

[v] *Φορμίωνα add.* Bekk. Dind.

from a subsequent claim which was settled by arbitration; and the laws allow no right of action where a release and discharge have been given or received.

23. μὴ εἰσαγώγιμον] Cf. ὑπόθεσις end of § 2, note on παραγράφεται.—διαλογισμοῦ, a reckoning up, or producing of accounts as between the two parties, Phormion and Apoll. Cf. § 60. The word is not found elsewhere in Dem.

ἀφέσεως — μισθώσεως] The order is (γεγενημένης) ἀφέσεως τῆς μισθ. τῆς τραπέζης κ.τ.λ. Cf. § 24 ἠφίει τῆς μισθώσεως and supr. § 10. Or. 33 § 3 πάντων ἀπαλλαγῆς καὶ ἀφέσεως γενομένης. 45 § 41; 38 §§ 5, 9, 14; ἄφεσις (τῶν ὀφλημάτων) 24 §§ 46, 87; (τῶν τόκων) 56 §§ 28, 34.

διαίτης κ.τ.λ.] § 16.

24. ἐκ τῶν νόμων] Contrasted with παρὰ τοὺς νόμους. As he brought his action contrary to the law, we have put in an objection to it which is fully allowed by the law.

25. ἀκούετε κ.τ.λ.] Or. 38, παραγραφὴ πρὸς Ναυσίμαχον, § 5 ἀκούετε τοῦ νόμου σαφῶς λέγοντος ἕκαστα ὧν μὴ εἶναι δίκας, ὧν ἐν ἐστιν, ὁμοίως τοῖς ἄλλοις κύριον, περὶ ὧν ἄν τις ἀφῇ καὶ ἀπαλλάξῃ, μὴ δικάζεσθαι. Cf. 37 §§ 1, 19; 33 § 3.

τά τ' ἄλλ' ὧν μὴ εἶναι δίκας[w], καὶ ὅσα τις ἀφῆκεν ἢ ἀπήλλαξεν. εἰκότως· εἰ γάρ ἐστι δίκαιον, ὧν ἂν ἅπαξ γένηται δίκη, μηκέτ' ἐξεῖναι δικάζεσθαι, πολὺ τῶν ἀφεθέντων δικαιότερον μὴ εἶναι δίκας[w]. ὁ μὲν γὰρ ἐν ὑμῖν ἡττηθεὶς τάχ' ἂν εἴποι τοῦθ' ὡς ἐξηπατήθηθ' ὑμεῖς· ὁ δ' αὑτοῦ φανερῶς καταγνοὺς καὶ ἀφεὶς καὶ ἀπαλλάξας, τίν' ἂν ἑαυτὸν αἰτίαν αἰτιασάμενος τῶν αὐτῶν πάλιν εἰκότως δικάζοιτο; οὐδεμίαν δήπου. διόπερ τοῦτο πρῶτον ἔγραψεν ὁ τὸν νόμον θεὶς ὧν μὴ

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[w]–[w] *καὶ ὅσα—μὴ εἶναι δίκας propter ὁμοιοτέλευτον omisit* S, *supplevit manus multo recentior.*

ὧν μὴ εἶναι δίκας] Infin. in relative clause influenced by *λέγοντος*. 'Among other cases in which an action cannot be maintained, those especially in which a discharge and release have been given or received.'

εἰ γὰρ κ.τ.λ.] The sense is, 'If it is just that, when once a case has been tried, it should not be tried again, even although the defeated litigant might fairly plead that the court had been imposed upon, *a fortiori* there is no ground for re-opening the question when a man has judged his own case and has palpably decided against himself by giving and receiving a discharge.'

μηκέτ' ἐξεῖναι δικάζεσθαι] Or. 38 § 16 *ἅπαξ περὶ τῶν αὐτῶν πρὸς τὸν αὐτὸν εἶναι τὰς δίκας.* 20 Lept. § 147 *οἱ νόμοι δ' οὐκ ἐῶσι δὶς πρὸς τὸν αὐτὸν περὶ τῶν αὐτῶν οὔτε δίκας οὔτ' εὐθύνας οὔτε διαδικασίαν οὔτ' ἄλλο τοιοῦτ' οὐδὲν εἶναι.*

ἐξηπατήθητε] Or. 37 § 20 *περὶ ὧν ἔγνω τὸ δικαστήριον, ἔστιν εἰπεῖν ὡς ἐξαπατηθὲν τοῦτ' ἐποίησε ...ἃ δ' αὐτὸς ἐπείσθη καὶ ἀφῆκεν, οὐκ ἔνι δήπουθεν εἰπεῖν οὐδ' αὐτὸν αἰτιάσασθαι ὡς οὐ δικαίως ταῦτ' ἐποίησεν.*

αὑτοῦ...καταγνοὺς] The two subsequent participles are subordinate in construction to *καταγνούς*. 'He who has clearly condemned (given a verdict against) himself *by* both granting and getting a release and discharge.' Madvig, *Gr. Synt.* § 176, d.

ἀφεὶς καὶ ἀπαλλάξας] It is clear the words do not mean the same thing, for below we have *γέγονεν ἀμφότερα· καὶ γὰρ ἀφῆκε καὶ ἀπήλλαξε.* Similarly 37 § 1 and 38 § 1 after *ἀφεὶς καὶ ἀπαλλάξας* we have *γεγενημένων ἀμφοτέρων*, and in 37 § 19 after *ὧν ἂν ἀφῇ καὶ ἀπαλλάξῃ τις* we have *ἀμφότερ' ἐστὶ πεπαγμένα.*

ἀφιέναι is very frequently used of the lender, or the landlord, who, on settlement of his claims, releases the borrower or the tenant from all further liability (§§ 10, 15, 16, 17, 24; 45 §§ 5, 40). Similarly of a ward releasing his guardian from all further claims, in 38 §§ 3, 4, 6, 18, 27; and of a creditor forgiving a debt, 53 §§ 8, 13. Cf. 56 §§ 26, 28, 29.

ἀπαλλάττειν often refers to the debtor or tenant getting quit of his creditor or landlord by discharging or compromising the debt (34 § 22 *τοὺς δανείσαντας ἀπήλλαξεν*, 49 § 17; 53 § 11; 33 § 9 and Isaeus Or. 5 Dicaeog.

§ 28 ἀπαλλάσσειν τοὺς χρήστας). Settling a cross account between lessor and lessee (e.g. Apoll. and Phormion) would involve a double release and quittance on either side. Cf. 33 § 12 τῶν συναλλαγμάτων ἀφεῖμεν καὶ ἀπηλλάξαμεν ἀλλήλους ὥστε μήτε τούτῳ πρὸς ἐμὲ μήτ' ἐμοὶ πρὸς τοῦτον πρᾶγμ' εἶναι μηδέν, and § 3 ὅσα μὲν ἐμοὶ καὶ τούτῳ ἐγένετο συμβόλαια, πάντων ἀπαλλαγῆς καὶ ἀφέσεως γενομένης.

The present passage is the subject of the following article in Harpocration. ἀφεὶς καὶ ἀπαλλάξας· τὸ μὲν ἀφεὶς ὅταν ἀπολύσῃ τίς τινα τῶν ἐγκλημάτων ων ἐνεκάλει αὐτῷ, τὸ δὲ ἀπαλλάξας, ὅταν πείσῃ τὸν ἐγκαλοῦντα ἀποστῆναι καὶ μηκέτι ἐγκαλεῖν (*recte*)· Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ. ἔστι δὲ καὶ οὕτως εἰπεῖν, ὅτι ἀφίησι μέν τις αὐτῶν μόνον ὧν ἂν ἐγκαλῇ, ἀπαλλάττει δέ, ὅταν μηδὲ ἄλλον τινὰ λόγον ὑπολίπηται ἑαυτῷ πρὸς τὸν ἐγκαλούμενον. Δημοσθένης ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ "ἵν' ἀπαλλαγή τις αὐτῷ γένηται παρ' ὑμῶν κυρία" (§ 2). Cf. Or. 37 §§ 1, 16, 19; Or. 38 §§ 1, 5; Or. 33 § 3. In Bekker's *Anecdota* pp. 202, 469 we find the same explanation as that which is given in the first part of Harpocration's article.

In Shilleto's copy of Kennedy's translation I find a manuscript note in which, after quoting the explanation given in Bekker's *Anecdota*, he adds: "This is a clear statement and exactly in accordance with the meaning of the words: ἀφίημι, 'I let go, one whom I have a hold of'; ἀπαλλάττω, 'I get rid of one who has a hold of me.' So I ἀφίημι a man on whom I have a claim by my condoning the debt, by receiving payment, postponing it, &c.; I ἀπαλλάττω a man who has a claim on me, by his condoning the debt, by my paying it, by my putting off the payment-day. So he who ἀφίησιν, ἀπαλλάττεται [passive]; he who ἀπαλλάττει, ἀφίεται [passive]. I cannot conceive anything plainer." But owing to the twofold use of ἀπαλλάττειν, both of *setting free* and *getting rid of* another, the question is not really quite as simple as this would make it appear. Thus in Isocr. Trapez. § 26, after ἀφειμένος and ἀφεῖσθαι τῶν ἐγκλημάτων have been used in §§ 23, 25 of one who is 'released from all claims,' the same person is described as ἀπηλλαγμένος τῶν ἐγκλημάτων, which is possibly a middle use, 'having got himself quit of all claims.'—The distinction drawn in Platner's *Process* I 146, is that ἀφεῖναι regards the release from an existing obligation mainly from the point of view of the person granting the release, whereas ἀπαλλάττειν implies a *twofold* transaction and an agreement on the part of *both* the persons concerned.—Kennedy, on p. 230 of his translation of Dem. *Pant.*, approves of Pabst's supposition that 'the two Greek verbs have no distinct meanings'; and similarly Mr Paley held that 'although a shade of difference might be traced, and perhaps originally existed between them, they had practically become synonyms.' Reasons have been given above for dissenting from this view.

εἶναι δίκας, ὅσα τις ἀφῆκεν ἢ ἀπήλλαξεν. ἃ τῳδὶ[x] γέγονεν ἀμφότερα· καὶ γὰρ ἀφῆκε καὶ ἀπήλλαξεν. ὡς δ' ἀληθῆ λέγω, μεμαρτύρηται ὑμῖν ὦ ἄνδρες Ἀθηναῖοι.

Λαβὲ δή μοι καὶ τὸν τῆς προθεσμίας νόμον. 26

ΝΟΜΟΣ.

Ὁ μὲν τοίνυν νόμος ὦ ἄνδρες Ἀθηναῖοι σαφῶς
οὑτωσὶ τὸν χρόνον ὥρισεν· Ἀπολλόδωρος δ' οὑτοσὶ
παρεληλυθότων ἐτῶν πλέον ἢ εἴκοσι τὴν ἑαυτοῦ συκο-
φαντίαν ἀξιοῖ περὶ πλείονος ὑμᾶς ποιήσασθαι τῶν
νόμων, καθ' οὓς ὀμωμοκότες δικάζετε. καίτοι πᾶσι
μὲν τοῖς νόμοις προσέχειν εἰκός ἐσθ' ὑμᾶς, οὐχ ἥκιστα
δὲ τούτῳ ὦ ἄνδρες Ἀθηναῖοι. δοκεῖ γάρ μοι καὶ ὁ 27
Σόλων οὐδενὸς ἄλλου ἕνεκα θεῖναι αὐτὸν ἢ τοῦ μὴ

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[x] Bl. *coll.* § 53; *τῷδε syllabis brevibus iteratis codices.*

§ 26. *The plaintiff's suit is also inadmissible for another reason; it contravenes the statute of limitations, in which the term of five years is fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff puts forward his claim after a lapse of more than twenty years.*

προθεσμίας νόμον] (See Dict. Antiq. s.v.)—Harpocr. Δημοσθένης ὑπὲρ Φορμίωνος· τὴν τῶν ε′ ἐτῶν ἂν λέγοι προθεσμίαν ὁ ῥήτωρ, ὡς ἐν τῷ λόγῳ ὑποσημαίνει. See Or. 38 §§ 17, 27, and cf. Isaeus, 3 § 58, and Plato Leg. pp. 928^c, 954^c. (Caillemer, *la Prescription à Athènes*, 1869, and Hermann, *Privatalt.* § 71, 5 and 6 = *Rechtsalt.* p. 122^4 Thalheim.)

πλέον ἢ εἴκοσι] The speaker apparently goes back to the time of Pasion's lease of the banking business to Phormion, which cannot well have been later than B.C. 371, when Pasion was so infirm that he died a year after. This would bring the date of the speech to B.C. 351 at the earliest, and B.C. 350 cannot be far wrong. See *Introd.* p. xxvii f.

πλέον ... πλείονος] Kühner-Blass, *Gr. Gr.* I 1, 571.

καθ' οὓς ὀμωμοκότες κ.τ.λ.] Pollux: ὁ δ' ὅρκος ἦν τῶν δικαστῶν, περὶ μὲν ὧν νόμοι εἰσί, ψηφιεῖσθαι κατὰ τοὺς νόμους, περὶ δὲ ὧν μή εἰσι, γνώμῃ τῇ δικαιοτάτῃ (VIII 122). See Dr Hager in *Journal of Philology*, VI 10, and Meier and Schömann, p. 152—5 Lipsius.

27. δοκεῖ ὁ Σόλων] A favourite rhetorical device, to remind the dicasts of the solemnity and high authority of the law they administer.

συκοφαντεῖσθαι ὑμᾶς. τοῖς μὲν γὰρ ἀδικουμένοις τὰ πέντ' ἔτη ἱκανὸν ἡγήσατ' εἶναι εἰσπράξασθαι· κατὰ 953 *δὲ τῶν ψευδομένων τὸν χρόνον ἐνόμισε σαφέστατον ἔλεγχον ἔσεσθαι. καὶ ἅμ'*[y] *ἐπειδὴ ἀδύνατον ἔγνω ὂν τούς τε συμβάλλοντας καὶ τοὺς μάρτυρας ἀεὶ ζῆν, τὸν νόμον ἀντὶ τούτων ἔθηκεν, ὅπως μάρτυς εἴη*[z] *τοῦ δικαίου τοῖς ἐρήμοις.*

[y] Bekk. *καὶ ἅμα καὶ* Z *et* Voemel *cum* S.

[z] *μαρτυρησείη* Voemel (*μαρτυρησει η* S).

τοῖς ἀδικουμένοις...τῶν ψευδομένων] i.e. the legal term of five years would be quite sufficient for injured parties to recover their rights if their claim were an honest one, whereas those who set up false claims, (a pointed thrust at the present plaintiff,) would be convicted by the fact that they had allowed the statutable period to elapse without taking action. (*ἔλεγχον ἔσεσθαι* sc. *si per tot annos tacuissent*. G. H. Schaefer.) *τῶν ψευδομένων* is sometimes wrongly supposed to imply that as in Roman law there was no statute of limitations against right of recovery of things stolen, (*quod subreptum erit, eius rei aeterna auctoritas esto,*) so in Attic law there was none in case of falsehood, i.e. that even after five years a claim based on a false assertion might be disputed. (Telfy, *Corpus iuris Attici* §1587, and Hermann, *Privatalt.* § 71, 6 = *Rechtsalt.* p. 122^4 Thalheim.) Here *τῶν ψευδομένων* merely means *τῶν συκοφαντούντων*.

τὰ πέντ' ἔτη] The *well-known* legal term of five years. Or. 38 § 27 *τοῦ νόμου πέντε ἐτῶν τὴν προθεσμίαν δεδωκότος*.

τὸν χρόνον—ἔλεγχον] Lysias Or. 19 § 61 *τῷ χρόνῳ ὃν ὑμεῖς σαφέστατον ἔλεγχον τοῦ ἀληθοῦς νομίσατε*.

τὸν νόμον ἀντὶ τούτων κ.τ.λ.] That is, 'The contracting parties themselves, and the witnesses to that contract, could not live for ever; and therefore the legislator laid down the law, with its limit of time, designing that, in lieu of living witnesses, the destitute should find therein a deathless witness on the side of right.'

§§ 28—32. Plaintiff's probable reply anticipated. *Surely he will not ask his audience to resent the defendant's marriage with the plaintiff's mother. Among bankers, there are many precedents for such an arrangement, and on grounds of expediency, as the only means of keeping up the business, Pasion acted prudently in directing that Phormion should marry his widow and thereby binding him more closely to his own household.*

As to the point of honour, 'you may turn up your nose at Phormion's marrying into your family, but remember that in high character, he is more like your father than you are.'

That the marriage was directed by Pasion is not only expressly

Θαυμάζω τοίνυν ἔγωγ' ὦ ἄνδρες δικασταί, τί ποτ' 28
ἐστὶν ἃ πρὸς ταῦτ' ἐπιχειρήσει λέγειν Ἀπολλόδωρος
οὑτοσί. οὐ γὰρ ἐκεῖνό γ' ὑπείληφεν, ὡς ὑμεῖς, μηδὲν
ὁρῶντες εἰς χρήματα τοῦτον ἠδικημένον, ὀργιεῖσθ'
ὅτι τὴν μητέρ' ἔγημεν αὐτοῦ Φορμίων. οὐ γὰρ ἀγνοεῖ
τοῦτο, οὐδ' αὐτὸν λέληθεν, οὐδ' ὑμῶν πολλούς, ὅτι
Σωκράτης ὁ τραπεζίτης ἐκεῖνος, παρὰ τῶν κυρίων
ἀπαλλαγεὶς ὥσπερ ὁ τούτου πατήρ, ἔδωκε Σατύρῳ
τὴν ἑαυτοῦ γυναῖκα, ἑαυτοῦ ποτὲ γενομένῳ. ἕτερος 29
Σωκλῆς τραπεζιτεύσας ἔδωκε τὴν ἑαυτοῦ γυναῖκα
Τιμοδήμῳ τῷ νῦν ἔτ' ὄντι καὶ ζῶντι, γενομένῳ ποθ'
αὑτοῦ[a]. καὶ οὐ μόνον ἐνθάδε τοῦτο[b] ποιοῦσιν οἱ περὶ
τὰς ἐργασίας ὄντες ταύτας ὦ ἄνδρες Ἀθηναῖοι, ἀλλ'
ἐν Αἰγίνῃ ἔδωκε Στρυμόδωρος Ἑρμαίῳ τῷ ἑαυτοῦ[c]
οἰκέτῃ τὴν γυναῖκα, καὶ τελευτησάσης ἐκείνης ἔδωκε

[a] ἑαυτοῦ Z. [b] FQ (Bl.). *ταῦτα ceteri.*
[c] *ποτ' propter hiatum inserebat* Bl.

proved by the will, but is inferentially concluded from the plaintiff's own admission; for on his mother's death he permitted her two children by Phormion to share her property equally with himself and Pasicles, her two children by Pasion, and thus allowed the legality of this second marriage.

28. *θαυμάζω κ.τ.λ.*] Or. 37 § 44 *ἔγωγε, ὅ τι ποτ' ἐρεῖ πρὸς ὑμᾶς, θαυμάζω.*

τί ποτ' ἐστὶν ἃ] Cf. 54 § 13 n.

μηδὲν ὁρῶντες] i. e. *ἣν καὶ μηδὲν ὁρᾶτε.* Goodwin, *Moods and Tenses*, § 52, 1; § 109, 6; §§ 472, 841, ed. 1889.

παρὰ τῶν κυρίων ἀπαλλαγεὶς ὥσπερ ὁ τούτου πατὴρ] A very close parallel. The banker referred to, like the plaintiff's father, had himself been a slave once, had been set free by his masters, and had given his wife in marriage to one who was formerly his slave. Cf. § 43 fin. and § 48 *ἐγένετο Πασίων Ἀρχεστράτου.* On *ἐκεῖνος* see Or. 40 § 28.

29. *ὄντι καὶ ζῶντι*] Who is still 'alive and in being.' The redundancy is intended to strengthen the emphasis. Cf. De Corona § 72 *τὴν Μυσῶν λείαν καλουμένην τὴν Ἑλλάδα οὖσαν ὀφθῆναι ζώντων καὶ ὄντων Ἀθηναίων.*

τελευτησάσης...ἔδωκε τὴν θυγατέρα] After the will had been made, the wife apparently died before the husband and the latter then gave his daughter in marriage to his former servant. The first *ἔδωκε* therefore must mean, 'directed in his will that, after his own death, his widow should marry Her-

πάλιν τὴν θυγατέρα τὴν ἑαυτοῦ. καὶ πολλοὺς ἂν ἔχοι
30 τις εἰπεῖν τοιούτους. εἰκότως· ὑμῖν μὲν γὰρ ὦ ἄνδρες
Ἀθηναῖοι, τοῖς γένει πολίταις, οὐδὲ ἓν πλῆθος χρημάτων
ἀντὶ τοῦ γένους καλόν ἐστιν ἑλέσθαι· τοῖς δὲ
τοῦτο μὲν δωρειὰν ἢ παρ' ὑμῶν ἢ παρ' ἄλλων τινῶν
λαβοῦσι, τῇ τύχῃ δ' ἐξ ἀρχῆς ἀπὸ τοῦ χρηματίσασθαι
καὶ ἑτέρων πλείω κτήσασθαι[d] καὶ αὐτῶν τούτων
ἀξιωθεῖσι, ταῦτ' ἐστι φυλακτέα. διόπερ Πασίων ὁ
πατὴρ ὁ σὸς οὐ πρῶτος οὐδὲ μόνος, οὐδ' αὐτὸν ὑβρίζων 954
οὐδ' ὑμᾶς τοὺς υἱεῖς, ἀλλὰ μόνην ὁρῶν σωτηρίαν τοῖς
ἑαυτοῦ πράγμασιν, εἰ τοῦτον ἀνάγκῃ ποιήσειεν οἰκεῖον
ὑμῖν, ἔδωκε τὴν ἑαυτοῦ γυναῖκα, μητέρα δ' ὑμετέραν

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[d] *καὶ ἑτέρων πλείω κτήσασθαι om.* Huettner *cum* Ar.

maeus.' M. Dareste, however, supposes that there is no reference to any will. He holds that the woman had either been divorced from her husband, or was not his lawful wife.

30. *ὑμῖν...τοῖς γένει πολίταις κ.τ.λ.*] A compliment to the audience, designed to smooth the way for what might otherwise prove an invidious reference to the money-making of bankers in general and to the wealth of Pasion in particular. 'For *you*, gentlemen of Athens, you who are citizens by birth, it is discreditable to prize any amount of money, however large, more highly than that honourable birth (lit. 'no amount of wealth is honourable for you to accept in place of your free birth'); but those who (like Pasion) have received the rights of citizenship as a free gift either from yourselves or from others, and who, thanks in the first instance to their good fortune, were deemed worthy of the selfsame privileges, by reason of having prospered in money-making and acquired more wealth than their neighbours, must do their best to preserve their pecuniary advantages.'

The sense is, 'though it would be wrong for those who are citizens by birth to prefer wealth to citizenship, it would also be unreasonable for those who are citizens by adoption to be careless of the wealth which has gained them that very honour and privilege.'

αὐτὸν ὑβρίζων κ.τ.λ.] Disgracing, outraging, casting contumely on, himself and his family. Though you threatened Phormion with a *γραφὴ ὕβρεως* for marrying your mother (Or. 45 § 3—4), your father was guilty of no *ὕβρις* to his family in arranging for that marriage.

ἀνάγκῃ] *Necessitate*, 'by a family tie.' Isocr. ad Dem. 10, Lys. 32 § 5.

ὑμῖν...ὑμετέραν] 'You and yours.' 'Your family.' Cf. Or. 55 § 5, n.

τούτῳ. πρὸς μὲν οὖν τὰ συμφέροντ' ἐὰν ἐξετάζῃς, 31
καλῶς βεβουλευμένον αὐτὸν εὑρήσεις· εἰ δὲ πρὸς
γένους δόξαν ἀναίνει[e] Φορμίωνα κηδεστήν, ὅρα μὴ
γελοῖον ᾖ σὲ ταῦτα λέγειν. εἰ γάρ τις ἔροιτό σε,
ποῖόν τιν' ἡγεῖ[f] τὸν πατέρα [τὸν σεαυτοῦ][g] εἶναι, χρηστὸν
εὖ οἶδ' ὅτι φήσειας ἄν. πότερ'[h] οὖν οἴει μᾶλλον
ἐοικέναι τὸν τρόπον καὶ πάντα τὸν βίον Πασίωνι
σαυτὸν ἢ τουτονί; ἐγὼ μὲν γὰρ [εὖ οἶδ' ὅτι][i] τοῦτον.
εἶθ' ὃς ἐστιν ὁμοιότερος σοῦ τῷ σῷ πατρί, τοῦτον, εἰ 32
τὴν μητέρα τὴν σὴν ἔγημεν, ἀναίνει[e]; ἀλλὰ μὴν ὅτι
δόντος γε[k] καὶ ἐπισκήψαντος τοῦ σοῦ πατρὸς ταῦτ'
ἐπράχθη, οὐ μόνον ἐκ τῆς διαθήκης ἔστιν ἰδεῖν ὦ
ἄνδρες Ἀθηναῖοι, ἀλλὰ καὶ σὺ μάρτυς αὐτὸς γέγονας.
ὅτε γὰρ τὰ μητρῷα πρὸς μέρος ἠξίους νέμεσθαι, ὄντων
παίδων ἐκ τῆς γυναικὸς Φορμίωνι τουτῳί[l], τότε ὡμολόγεις
κυρίως δόντος τοῦ πατρὸς τοῦ σοῦ κατὰ τοὺς
νόμους αὐτὴν γεγαμῆσθαι. εἰ γὰρ αὐτὴν εἶχε λαβὼν
ἀδίκως ὅδε μηδενὸς δόντος, οὐκ ἦσαν οἱ παῖδες κληρο-

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[e] *ἀναίνῃ* Z. [f] S. *ἡγῇ* Z.

[g] *τὸν $\overset{σ}{\text{ε}}$αυτου* S. *σαυτοῦ* Z. *τὸν σεαυτοῦ propter hiatum secl.* Bl., '*modo de Pasione sermo fuit.*' [h] *πότερον codices*; *πότερ'* Bl.

[i] *εὖ οἶδ' ὅτι quae modo praecesserunt om.* Bl.; *ἐγὼ μὲν τοῦτον* A. Schaefer.

[k] *γε δόντος codd. propter syllabas breves transposuit* Bl.

[l] *τούτῳ* codd.

31. *πρὸς γένους δόξαν*] Sc. *βλέπων*.

ἀναίνει] 'Disdain,' 'scorn,' 'disown,' 'turn up your nose at' in family pride. Harpocr. *ἀναίνεσθαι κοινῶς μὲν τὸ ἀρνεῖσθαι, ἰδίως δὲ ἐπὶ τῶν κατὰ τοὺς γάμους ...λέγεται. Δημ. ἐν τῇ ὑπὲρ Φορμίωνος παραγραφῇ.*—*κηδεστὴν* in general a relation by marriage, here used of the stepfather.

σὲ ταῦτα λέγειν] Notice the emphatic pronoun.

32. *δόντος κ. ἐπισκήψαντος*] By your father's special grant and injunction.

πρὸς μέρος] 'Share and share alike.' § 8, *ἀντιμοιρεὶ νέμειν, νέμεσθαι.* On *παίδων...Φορμίωνι* see note on *τὸ τέταρτον μέρος* infr.

οὐκ ἦσαν...κληρονόμοι] The proposition is categorically, not conditionally stated, 'then the children were not heirs; and if they were not heirs, then they

νόμοι, τοῖς δὲ μὴ κληρονόμοις οὐκ ἦν μετουσία τῶν ὄντων. ἀλλὰ μὴν ὅτι ταῦτ’ ἀληθῆ λέγω μεμαρτύρηται τὸ[m] τέταρτον μέρος λαβεῖν καὶ ἀφεῖναι τῶν ἐγκλημάτων ἁπάντων.

33 Κατ’ οὐδὲν τοίνυν ὦ ἄνδρες Ἀθηναῖοι δίκαιον
οὐδὲν ἔχων εἰπεῖν ἀναιδεστάτους λόγους ἐτόλμα λέγειν
πρὸς τῷ διαιτητῇ, περὶ ὧν προακηκοέναι βέλτιόν ἐσθ’ 955
ὑμᾶς, ἕνα μὲν τὸ παράπαν μὴ γενέσθαι διαθήκην,
ἀλλ’ εἶναι τοῦτο πλάσμα καὶ σκευώρημ’ ὅλον, ἕτερον

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[m] τῷ τὸ Reiske, Dind.

had no share in the property.’ The right of inheritance was confined to the children born ἐξ ἀστῆς καὶ ἐγγυητῆς γυναικός, Isae. 6 § 47; 8 § 19; 12 § 9. Dem. Or. 57 § 53 ἐξῆν τούτοις (τοῖς συγγενέσι) εἰ νόθος ἢ ξένος ἦν ἐγώ, κληρονόμοις εἶναι τῶν ἐμῶν πάντων. Arist. Aves, 1640—73. (Hermann *Privatalt.* § 29, 5= p. 253 Blümner, and § 57, 2= *Rechtsalt.* p. 7 Thalheim; *Att. Process*, ed. Lipsius, p. 501.)

τὸ τέταρτον μέρος] The property is divided into four parts, one of which is taken by Apollodorus, another by his brother Pasicles. The other two go to the children of the second marriage, who must have been two in number.

ἀφεῖναι τῶν ἐγκλ.] § 3 ἀφεθείς, § 25 ἀφεὶς κ. ἀπαλλάξας, n.

§§ 33—35. Anticipation of plaintiff’s arguments, continued. *He will impudently assert* (1) *that his father made no will and that the document produced was a forgery; and* (2) *that the reason why he forbore to press the charge at the proper time was that defendant promised to pay him a high rent.*

In answer to (1), *if there was no will, how came the plaintiff to succeed to the lodging-house which he holds in accordance with the terms of the will? In answer to* (2), *it is in evidence that after the termination of the defendant’s lease, the plaintiff let the business to others; had the plaintiff any lawful claim on the defendant, he ought certainly to have brought it forward at the time of the subsequent lease.*

33. εἰπεῖν...λέγειν] Almost identical in meaning and used, as often, for variety of expression. Phil. II § 11 ταῦθ’ ἃ πάντες μὲν ἀεὶ γλίχονται λέγειν, ἀξίως δ’ οὐδεὶς εἰπεῖν δεδύνηται. Isocr. ad Dem. § 41 and Paneg. § 11 n.

ἀναιδεστάτους] The ‘vocabulary of denunciation’ in the private speeches of Dem. includes adjectives such as ἀναιδής (37 §§ 3, 27; 54 § 38), ἀναίσχυντος, πονηρός, κακός, ἄδικος, μιαρός, βδελυρός, ἀνόσιος, ἀκάθαρτος, σχέτλιος; the adverbs ἀναιδῶς, αἰσχρῶς, ἀδίκως, πλεονεκτικῶς; the substantives ἀναίδεια, ἀναισχυντία, πονηρία, αἰσχροκέρδεια, πανουργία, μιαρία, κακουργία; and the verbs ἀναισχυντεῖν and πανουργεῖν (W. H. Kirk, *Demosthenic Style in the Private Orations*, 1895, p. 8).

πλάσμα κ. σκευώρημ’ ὅλον] ‘A figment and a forgery from be-

***δ' ἕνεκα τούτου πάντα ταῦτα συγχωρεῖν τὸν πρὸ τοῦ
χρόνον καὶ οὐχὶ δικάζεσθαι, ὅτι μίσθωσιν ἤθελεν
αὐτῷ φέρειν Φορμίων πολλὴν καὶ ὑπισχνεῖτ' οἴσειν·
ἐπειδὴ[n] δ' οὐ ποιεῖ ταῦτα, τηνικαῦτα, φησί, δικάζομαι.
ὅτι δὴ[o] ταῦτ' ἀμφότερ', ἐὰν λέγῃ, ψεύσεται καὶ τοῖς ὑφ'*** 34
***ἑαυτοῦ πεπραγμένοις ἐναντί' ἐρεῖ, σκοπεῖτ' ἐκ τωνδί.
ὅταν μὲν τοίνυν τὴν διαθήκην ἀρνῆται, ἐκ τίνος τρόπου
πρεσβεῖα λαβὼν τὴν συνοικίαν κατὰ τὴν διαθήκην
ἔχει, τοῦτ' ἐρωτᾶτ' αὐτόν. οὐ γὰρ ἐκεῖνό γ' ἐρεῖ, ὡς***

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[n] *ἐπεὶ* SA (Dind.).

[o] *ὅτι δὲ tribus brevibus collocatis codices.* *ὅτι δὴ* Bl. *coll.* 21 § 184; 22 § 9.

ginning to end.' Hesych. *σκευώρημα· πλάσμα, κακουργία, κατασκευή, τὸ γινόμενον κατασκεύασμα εἰς βλάβην*, and *id.* *σκευωρία· κατασκευή*. Pollux x 15 *τάχα δ' ἀπὸ τούτων* (sc. *σκευῶν*) *καὶ ἡ σκευοποιία καὶ ἡ σκευωρία* (Or. 55 § 2) *καὶ τὸ ἐσκευοποιημένον πρᾶγμα, ὡς Ἰσαῖος ἐν τῷ περὶ τοῦ Ἀρχεπόλιδος κλήρου· διαθηκῶν δὲ τεττάρων ὑπ' αὐτῶν ἐσκευοποιημένων.*

In Or. 45 § 42 Apollodorus himself, in criticising the *διαθήκη*, concludes with the words *πάντα πεπλασμένα καὶ κατεσκευασμένα ἐλέγχεται.* Cf. ib. 29 *πλάσμα ὅλον ἐστὶν ἡ διαθήκη*, and 41 § 24 *σκευώρημα.*

τὸν πρὸ τοῦ χρόνον] 'During the former period.' *πρὸ τοῦ* sometimes spelt as one word *προτοῦ.*

οὐχὶ δικάζεσθαι] See Shilleto on Thuc. I, p. 153.

μίσθωσιν...φέρειν] We have frequently had *μίσθωσιν* in the sense of 'lease' (§§ 6, 7, 10 *bis*, 11, 12, 23, 24; also in § 60); we here find it used like *μίσθωμα* for 'rent' (§§ 36, 37 *bis*, 38, 41, 51 *bis*); cf. Or. 28 § 12 *ἀποδέδωκε τὴν μίσθωσιν* followed by *λαβὼν τὴν πρόσοδον.* Both senses occur in § 9 *supra.* It sometimes means a 'tenancy,' the 'terms of a tenancy,' or 'the conditions of a lease' (27 § 59; 37 §§ 5, 6); and, once in Dem. (56 § 25), 'hiring.'

34. *πρεσβεῖα*] By right of primogeniture (39 § 29). Pollux: *πρεσβεῖά ἐστι γέρα τὰ τοῖς πρεσβυτέροις δεδομένα.* The recognition of any such right seems quite exceptional in Attic law. See Hermann's *Rechtsalt.* § 9, p. 62^4 note 2, Thalheim.

τὴν συνοικίαν] "It should be observed that the Attic language distinguishes between dwelling-houses (*οἰκίαι*) and lodging-houses (*συνοικίαι*); accidentally indeed a dwelling-house might be let out for lodgings, and a lodging-house have been inhabited by the proprietor himself" (Boeckh, *Publ. Æcon.* I 90). Apoll. may have already had a household of his own and his father may therefore have assigned him a *συνοικία* (A. Schaefer, *Dem. u. s. Zeit*, III 2, 133). Cf. § 6 *ἐπὶ συνοικίαις*, n.

ὅσα μὲν[p] πλεονεκτεῖν τόνδ' ἔγραψεν ὁ πατὴρ, κύριά
35 ἐστι τῆς διαθήκης, τὰ δ' ἄλλ' ἄκυρα. ὅταν δ' ὑπὸ τῶν
τοῦδ' ὑποσχέσεων ὑπάγεσθαι φῇ, μέμνησθ' ὅτι μάρτυρας ὑμῖν παρεσχήμεθα, οἳ χρόνον πολὺν τοῦδ' ἀπηλλαγμένου μισθωταὶ τούτοις ἐγίγνοντο τῆς τραπέζης
καὶ τοῦ ἀσπιδοπηγείου. καίτοι τόθ', ὁπηνίκ' ἐμίσθωσεν ἐκείνοις, τῷδ' ἐγκαλεῖν παραχρῆμ' ἐχρῆν, εἴπερ
ἀληθῆ ἦν ὑπὲρ ὧν τότ' ἀφεὶς νῦν τούτῳ[q] δικάζεται.
ὡς τοίνυν[r] ἀληθῆ λέγω, καὶ πρεσβεῖά τε τὴν συνοικίαν
ἔλαβε κατὰ τὴν διαθήκην, καὶ τῷδ' οὐχ ὅπως ἐγκαλεῖν ᾤετο δεῖν, ἀλλ' ἐπῄνει, λαβὲ τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

36 Ἵνα τοίνυν εἰδῆτ' ὦ ἄνδρες Ἀθηναῖοι, ὅσα χρήματ'

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[p] ὡς ἃ μὲν Huettner (ωσαμὲν S *prima manu*); ὅσα μὲν Voemel.

[q] *modo* τῷδε *de eodem fuit; igitur aut delendum aut in* τουτῳὶ *mutandum censet* Bl. *coll.* § 4.

[r] S. τοίνυν ταῦτ' Z.

35. ὑποσχέσεων] He will tell you, perhaps, that Phormion promised to pay a good rent (ὑπισχνεῖτο § 33), and so for a long time he withheld further action.

χρόνον πολὺν] 'For a long time' (ten years as appears by § 37), acc. of duration of time, to be taken with μισθωταὶ ἐγίγνοντο. Kennedy seems to be mistaken in taking it with τοῦδ' ἀπηλλαγμένου and translating 'who, *long after* the defendant's retirement, took a lease.' On the contrary, the new lease must have been granted *not long after* the defendant's connexion with the business ended, as eighteen years elapsed from the division of the property to the date of the speech, and the first eight belong to Phormion's lease and the last ten to the later lease of Xenon, &c. (cf. §§ 37, 19, 12). The general sense is this: We have proved that, after Phormion had given up the bank, others became and long remained lessees (§ 13) of it. Apollodorus ought, the moment they took it, to have looked after his dues, and seen that all his money was in the business. But he made no claim at all, nay even thanked Phormion for his good services in the management.

§§ 36—42. *The plaintiff will complain that he is utterly destitute and ruined. You must know then that, from the debts due to his father and the rents due to himself, he has received more than forty talents.*

Oh, but he has lavishly spent his money in the public service on trierarchal and choragic

ἔχων ἐκ τῶν μισθώσεων καὶ ἐκ τῶν χρεῶν ὡς ἀπο-
ρῶν καὶ πάντ᾽ ἀπολωλεκὼς ὀδυρεῖται[s], βραχέ᾽ ἡμῶν
956 ἀκούσατε. οὗτος γὰρ ἐκ μὲν τῶν χρεῶν ὁμοῦ τάλαντ᾽
εἴκοσιν εἰσπέπρακται ἐκ τῶν γραμμάτων ὧν ὁ πατὴρ
κατέλιπεν[t], καὶ τούτων ἔχει πλέον[u] ἢ τὰ ἡμίσεα[v]· πολ-
λῶν γὰρ τὰ μέρη τὸν ἀδελφὸν ἀποστερεῖ[w]. ἐκ δὲ τῶν 37
μισθώσεων, ὀκτὼ μὲν ἐτῶν ἃ Φορμίων εἶχε τὴν τράπε-
ζαν, ὀγδοήκοντα μνᾶς τοῦ ἐνιαυτοῦ ἑκάστου, τὸ ἥμισυ
τῆς ὅλης μισθώσεως· καὶ ταῦτ᾽ ἐστι δέκα τάλαντα καὶ
τετταράκοντα μναῖ· δέκα δὲ τῶν[x] μετὰ ταῦτα, ὧν ἐμί-

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[s] Bekk. *et* Dind. *coll.* 37 § 48. ὀδύρεται Z *et* Bekker st. *cum* SFQ.

[t] Bekk. κατελείπεν Z *cum* S.

[u] πλέον Bekk. πλεῖον Z *cum* S. πλείω FQ.

[v] ἡμίσεα Bl. *titulos Atticos secutus* (cf. Meisterhans, p. 118); ἡμίση S (Dind.).

[w] ἀποστερεῖ Bekk. Bl. *coll.* 28 § 13. ἀπεστέρει Z *et* Dind. *et* Voemel *cum* S. ἀποστερῶν Ar *omisso* γάρ.

[x] δέκα δὲ τῶν Bl. δέκα δ᾽ ἐτῶν *codices*, '*quod esse debebat* δέκα δ᾽ ἐτῶν τῶν.'

charges! On the contrary, all that he gave on his own *account after the property was divided, barely amounted to twenty minae. Even assuming his boasted liberality to be true,* that *is no reason for giving the defendant's property to the plaintiff, and thus reducing the former to poverty, while we see the latter squandering his money in his customary manner.*

36. μισθώσεων] 'Rents.' Cf. § 33.

ὀδυρεῖται] 21 § 186 ὀδυρεῖται καὶ πολλοὺς λόγους καὶ ταπεινοὺς ἐρεῖ.

εἰσπέπρακται ἐκ τ. γραμ.] § 21 ἐκ ποίων γραμμάτων, n.

ἀποστερεῖ] 'defrauds' his brother of his shares in many of the debts. ἀποστερεῖν is constantly used of 'withholding what is due to another,' 'keeping another out of his rights.'

37. τὴν τράπεζαν] The bank alone is mentioned, but it must not be forgotten that Phormion had a lease of the shield-manufactory as well.

ὀγδοήκοντα μνᾶς] The share of Apollodorus, eighty minae, is half the annual rent of the whole business, the shield-manufactory and the bank. Consistently with this, the whole rent, as stated in § 51, Or. 45 § 32, is 2 talents and 40^{m} (i.e. 160^{m}) per annum. Of this (as appears from § 11) one talent was paid for the shield-manufactory, and one talent and 40^{m} for the bank.

σθωσαν ὕστερον[y] Ξένωνι καὶ Εὐφραίῳ καὶ Εὔφρονι καὶ
38 Καλλιστράτῳ, τάλαντον[z] τοῦ ἐνιαυτοῦ ἑκάστου. χωρὶς δὲ τούτων, ἐτῶν ἴσως εἴκοσι τῆς ἐξ ἀρχῆς νεμηθείσης οὐσίας, ἧς αὐτὸς ἐπεμελεῖτο, τὰς προσόδους, πλέον ἢ μνᾶς τριάκοντα. ἐὰν δ' ἅπαντα συνθῆτε, ὅσ' ἐνεί-

Εὐφραίῳ] In Or. 49 πρὸς Τιμόθεον § 44, Phormion and Euphraeus are mentioned by Apollodorus, as having paid from Pasion's bank certain sums of money to persons named by Timotheus. Like Phormion, Euphraeus had risen from a subordinate position, to be one of the lessees of the bank. Cf. § 14 ἐλευθέρους ἀφεῖσαν, n.

τάλαντον] This is the rent of the shield-manufactory alone, as appears from § 11 τὸ (ἀσπιδοπηγεῖον) τάλαντον ἔφερεν. It is this rent alone that is here referred to. Xenon and his partners paid a total sum of $2^t\ 40^m$ for the whole business, consisting of the manufactory and the bank. The rent of the manufactory (1^t) belonged to Apollodorus, that of the bank to Pasicles ($1^t\ 40^m$). The rent thus paid *for the whole business* was the same as that which had been paid by Phormion (τοῦ ἴσου ἀργυρίου, § 12). It is from not understanding this, that Voemel was led to conjecture τάλαντον καὶ δισχιλίας, i.e. $1^t\ 20^m = 80^m =$ the sum paid by Phormion to Apollodorus. But it was only the *total* rent that was the same in both cases; the way in which it was divided between the brothers was different.

38. ἐτῶν ἴσως εἴκοσι] In § 19 the interval is more strictly stated at eighteen years. It has been suggested by Mr A. Wright that it is here put at 'nearly 20' to help the audience to follow the arithmetic. If so, the item ἐνείματο will become 10^t, though it is really less; and the half of the item εἰσεπράξατο may be put at 10^t, though it is really more. But the total would remain the same.

τῆς ἐξ ἀρχῆς κ.τ.λ.] See § 11. Apollodorus had chosen the shield-manufactory; and the rents of it, under his own management, are now reckoned as part of his general income.

ὅσ' ἐνείματο, ὅσ' εἰσεπράξατο, ὅσ' εἴληφε] 'Anaphora' with 'asyndeton'; cf. § 53; 27 § 38; 30 § 30; 37 §§ 36, 37, 44; 38 § 28; 54 § 28 (Kirk's *Demosthenic Style*, p. 10).

πλέον ἢ τετταράκοντα τάλαντα]
ἐνείματο more than 30^m
for eighteen years =
more than 540^m =
more than 9^t
εἰσεπράξατο 20^t; ἔχει
πλέον ἢ τὰ ἡμίση or
more than 10^t, say 11
εἴληφε μίσθωσιν from
Phormion for the
bank and manufactory 80^m for eight
years = 10 40^m
from
Xenon, &c. for the
manufactory alone,
1^t for ten years = 10

Total more than $40^t\ 40^m$

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[y] *om.* Bl. *cum* FQ *coll.* § 12.

[z] *καὶ δισχιλίας sine causa addidit* Voemel.

*ματο, ὅσ᾽ εἰσεπράξατο, ὅσ᾽ εἴληφε μίσθωσιν, πλέον
ἢ τετταράκοντα τάλαντ᾽ εἰληφὼς φανήσεται, χωρὶς
ὧν οὗτος εὖ πεποίηκε, καὶ τῶν μητρῴων, καὶ ὧν ἀπὸ* 39
*τῆς τραπέζης ἔχων οὐκ ἀποδίδωσι πένθ᾽ ἡμιταλάντων
καὶ ἑξακοσίων δραχμῶν. ἀλλὰ νὴ Δία ταῦθ᾽ ἡ πόλις
εἴληφε, καὶ δεινὰ πέπονθας πολλὰ καταλελῃτουργη-
κώς. ἀλλ᾽ ἃ μὲν ἐκ κοινῶν ἐλῃτούργεις τῶν χρημάτων,
σὺ καὶ ὁ ἀδελφὸς ἀνηλώσατε· ἃ δ᾽ ὕστερον, οὐκ ἔστιν
ἄξια μὴ ὅτι δυοῖν ταλάντοιν προσόδου, ἀλλ᾽ οὐδ᾽
εἴκοσι μνῶν. μηδὲν οὖν τὴν πόλιν αἰτιῶ, μηδ᾽ ἃ σὺ*

ὧν οὗτος εὖ πεπ.] Referring probably to Phormion's free gift of 3000 dr. (§ 15).—*τῶν μητρῴων*, a fourth part of his mother's property (§ 32). Otherwise we must understand it of an occasional *bonus* for the good-will of the bank: and to this *ἐπῄνει* might refer in § 35.

πένθ᾽ ἡμιταλάντων] Two and a half talents, not four and a half as Jerome Wolf and Kennedy translate it (which would require *πέμπτου ἡμιταλάντου*). The plaintiff's unpaid debt of 156^m is with a bitter emphasis mentioned last in the list of his resources.

39. *ἀλλὰ νὴ Δία*] Introducing a supposed rejoinder on the opposite side. 'Oh! but he will say, All this wealth has been received, in fact, not by him, but by the city.' Cf. Or. 54 § 34 n.

καταλελῃτουργηκώς] You make out that you are cruelly wronged, after having *lavishly spent*, (as it were) 'liturgised away,' your money in the public service. For this use of *κατα-* cf. Isaeus Or. 5 § 43 *οὔτε γὰρ εἰς τὴν πόλιν οὔτε εἰς τοὺς φίλους φανερὸς εἶ δαπανηθεὶς οὐδέν. ἀλλὰ μὴν οὐδὲ καθιπποτρόφηκας, οὐ γὰρ πώποτε ἐκτήσω ἵππον πλείονος ἄξιον ἢ τριῶν μνῶν· οὔτε κατεζευγοτρόφηκας, ἐπεὶ οὐδὲ ζεῦγος ἐκτήσω ὀρικὸν οὐδεπώποτε ἐπὶ τοσούτοις ἀγροῖς καὶ κτήμασιν.* [So *καταχαρίζεσθαι*, 'to give away in presents,' *καταχρῆσθαι, καταπροδοῦναι, καταδωροδοκεῖν, καταπολιτεύεσθαι, καθυποκρίνεσθαί τινα*, De Fals. Leg. §§ 362, 389. P.]

ἐκ κοινῶν κ.τ.λ.] i.e. You cannot take the sole credit for the sums spent *before* the property was divided. Half of that expenditure came out of your brother's money (§ 8).

ἐλῃτούργεις] See *Dict. Antiq.*; also Boeckh's *Public Econ.*, Book 4 §§ 10—15, and *Introduction* to Dem. *Leptines* pp. ii—xi. Among the *λῃτουργίαι* were the *τριηραρχία* and *χορηγία* referred to in § 41 fin. *λῃτουργία* (not *λειτουργία*) is the form found in inscriptions of the time of Dem. (*ib.* p. iii n. 2).

μὴ ὅτι...ἀλλ᾽ οὐδ᾽] See note on Or. 34 § 14, and cf. 27 § 7; 43 § 9; 56 § 39. Madvig's *Gk. Syntax*, § 212, and Kühner's *Gr. Gr.* II § 525, 4.

δυοῖν] i.e. more than 40 for about 20 years, § 38.

μηδὲν—αἰτιῶ] 'Don't accuse

τῶν ὄντων αἰσχρῶς καὶ κακῶς ἀνήλωκας, ὡς ἡ πόλις
40 εἴληφε, λέγε. ἵνα δ' εἰδῆτ' ὦ ἄνδρες Ἀθηναῖοι τό τε
πλῆθος τῶν χρημάτων ὧν εἴληφε, καὶ τὰς λητουργίας
ἃς λελητούργηκεν, ἀναγνώσεται ὑμῖν καθ' ἓν
ἕκαστον. λαβέ μοι[a] τὸ βιβλίον τουτὶ καὶ τὴν 957
πρόκλησιν ταυτηνὶ[b] καὶ τὰς μαρτυρίας ταυτασί.

ΒΙΒΛΙΟΝ[c]. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

41 Τοσαῦτα [μὲν][d] τοίνυν χρήματ' εἰληφὼς καὶ χρέα
πολλῶν ταλάντων ἔχων, ὧν τὰ μὲν παρ' ἑκόντων, τὰ
δ' ἐκ τῶν δικῶν εἰσπράττει, ἃ τῆς μισθώσεως ἔξω τῆς
τραπέζης καὶ τῆς ἄλλης οὐσίας, ἣν κατέλιπε Πασίων,
ὠφείλετ' ἐκείνῳ καὶ νῦν παρειλήφασιν οὗτοι, καὶ τοσαῦτ'
ἀνηλωκὼς ὅσ' ὑμεῖς ἠκούσατε, οὐδὲ πολλοστὸν
μέρος τῶν προσόδων, μὴ ὅτι τῶν ἀρχαίων, εἰς τὰς λητουργίας,
ὅμως ἀλαζονεύσεται καὶ τριηραρχίας ἐρεῖ

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[a] Bekk. *om.* Z *cum* S.

[b] Bekk. *ταύτην* Z *et* Voemel *cum* SA.

[c] *addidit* Reiske.

[d] *seclusit* Bl.

the *state* then,' 'don't be charging the state with being the cause and object of your lavish expenditure.'

41. *ἃ τῆς μισθ. κ.τ.λ.*] The order is *ἃ* (*ἔξω τῆς μισθώσεως τῆς τραπέζης κ.τ.λ.*) *ὠφείλετο τῷ Πασίωνι καὶ ἃ οὗτοι* (sc. Apoll. and Pasicles) *παρειλήφασιν*.

οὐδὲ πολλοστὸν κ.τ.λ.] 'The smallest fraction of his income, not to say (I needn't say) of his capital.' This explains *τοσαῦτ'*, *tantilla*.

ἀλαζονεύσεται καὶ τριηραρχίας ἐρεῖ] 'Will in bragging terms talk of his trierarchal (and choragic) expenses.' Of such *ἀλαζονεία* there are instances again and again in Dem. and the other orators, e.g. Or. 21 (Midias) § 160—. Or. 38 § 25 *τάχα τοίνυν ἴσως καὶ τριηραρχίας ἐροῦσι καὶ τὰ ὄντα ὡς ἀνηλώκασιν εἰς ὑμᾶς*, 20 § 151. In Or. 45 § 85, Apollodorus appeals to his father's trierarchies, and in § 66 taunts one of Phormion's witnesses, Stephanus, with having never done the smallest service to the state by *τριηραρχία* or *χορηγία* or any other *λητουργία* whatever.

The plaintiff had really some good reason for being proud of his trierarchal services. Among the orations of Dem. a speech has come down to us (Or. 50, *πρὸς Πολυκλέα*) in which Apollodorus states that being appointed trierarch (in B.C. 362) he gave his vessel a splendid

καὶ χορηγίας. ἐγὼ δ', ὡς μὲν οὐκ ἀληθῆ ταῦτ' ἐρεῖ, 42
ἐπέδειξα, οἶμαι[e] μέντοι[f], κἂν εἰ [ταῦτα] πάντ'[g] ἀληθῆ
λέγοι, κάλλιον εἶναι καὶ δικαιότερον τόνδε ἀπὸ τῶν
αὐτοῦ λῃτουργεῖν ὑμῖν ἢ τούτῳ δόντας τὰ τοῦδε[h],
μικρὰ τῶν πάντων αὐτοὺς μετασχόντας, τόνδε μὲν ἐν
ταῖς ἐσχάταις ἐνδείαις ὁρᾶν, τοῦτον δ' ὑβρίζοντα καὶ
εἰς ἅπερ εἴωθεν ἀναλίσκοντα. ἀλλὰ μὴν περὶ τῆς γ'[i] 43

equipment and liberal wages to the crew; and for more than seventeen months traversed the Hellespont and other waters, often encountering perilous storms, in the public service.

χορηγίας] One of these services of Apollodorus is mentioned in an inscription of 352—1 B.C., [Οἰνηΐ]ς παίδων [ἐνίκα]. Ἀπολλόδωρος Πασί[ωνος Ἀχαρνεὺς] ἐχορήγει. Λυσιάδης [Ἀθηναῖος ἐδίδασκε]. Ἀριστόδημος ἦρ[χε]. *C. I. A.* II 3, 1238.

42. *τόνδε ἀπὸ τῶν αὐτοῦ*] 'That he should *continue to serve you* from his own resources,' &c.—pointing to Phormion, who is also referred to in *τόνδε μὲν* two lines further on.—*τούτῳ δόντας τὰ τοῦδε*, i.e. handing over to the plaintiff (Ap.) the property of the defendant (Phormion). For a similarly ambiguous use of demonstrative pronouns, see above, § 12 n.

τόνδε μὲν...τοῦτον δ'] Defendant and plaintiff respectively.

εἰς ἅπερ εἴωθεν ἀναλ.] A deliberately vague innuendo, which is partly justified by the details of a subsequent section (§ 45). In Or. 45 § 77, Apollodorus says with some self-complacency: *τῷ μέτριος κατὰ πάσας τὰς εἰς ἐμαυτὸν δαπάνας εἶναι πολὺ τούτου καὶ τοιούτων ἑτέρων εὐτακτότερον ζῶν ἂν φανείην.*

§§ 43—48. *As to the defendant's wealth, and his having got it from your father's estate, you should be the last man in all the world to use such language. The defendant, like your own father, made his money by faithful and honest service, by personal integrity of character, and by that good credit and fair fame which in the commercial world is the best kind of capital.*

Again, if you claim the defendant's property on the ground that he was once your father's slave, then Antimachus, a surviving son of your father's former master, might go still further, and claim your own estate and the defendant's too; yet, though now in a humble position, far below his merits and his proper rank, he *does not go*

[e] S. *οἴομαι* Z (cf. § 18).   [f] *μὲν τοίνυν* SFQ.

[g] *ταῦτα πάντα* S; *πάντα ταῦτα vulg.*; *πάντα* Bl.

[h] *τούτου codices*; *τοῦδε* Bl., *coll.* §§ 35, 46, '*ubi τούτου pro τοῦδε in quibusdam codd. est; statim autem τόνδε...τοῦτον opponentur; cf. etiam* 58.'

[i] *περὶ τῆς γ'* Bl. *περί γε τῆς syllabis brevibus codices.*

εὐπορίας, ὡς ἐκ τῶν τοῦ πατρὸς τοῦ σοῦ κέκτηται, καὶ
ὧν ἐρωτήσειν ἔφησθα, πόθεν τὰ ὄντα κέκτηται Φορ-
μίων[k], μόνῳ τῶν ὄντων ἀνθρώπων σοὶ τοῦτον οὐκ
ἔνεστ' εἰπεῖν τὸν λόγον. οὐδὲ γὰρ Πασίων ὁ σὸς
πατὴρ ἐκτήσαθ' εὑρὼν οὐδὲ τοῦ πατρὸς αὐτῷ[l] παρα-
δόντος, ἀλλ' ἦ[m] παρὰ τοῖς αὑτοῦ κυρίοις Ἀντισθένει
καὶ Ἀρχεστράτῳ τραπεζιτεύουσι πεῖραν δοὺς ὅτι χρη-
44 στός ἐστι καὶ δίκαιος, ἐπιστεύθη. ἔστι δ' ἐν ἐμπορίῳ

to law with them, because they have money to spend while he is in destitution.

Instead of making the most of the good fortune by which your father and the defendant alike received the rights of freedom and citizenship, you are heartless enough to cast contumely on yourself and your parents, and on Athens too, for granting her privileges to people like yourself; you are senseless enough to forget that, by insisting that the defendant's former servitude should not be brought up against him, we are really speaking on your side and defending your own position. The rule, that you lay down to the detriment of the defendant, can as easily be advanced against yourself by the house to which your father was once a slave.

43. ὧν = περὶ τούτων ἅ.

πόθεν—κέκτηται Φ.] In Or. 45 § 80, Apollodorus unfairly says of Phormion, εἰ ἦν δίκαιος, πένης ἂν ἦν τὰ τοῦ δεσπότου διοικήσας. ...Had I dragged you off to prison as a thief caught in the act, with your present property clapped upon your back, ...and had I, supposing you denied the theft, demanded the name of the person from whom you received it, to whose name would you have appealed? οὔτε γάρ σοι πατὴρ παρέδωκεν, οὔθ' εὗρες.

ἐκτήσαθ' εὑρὼν] 'Got it *by good luck*' as a 'godsend,' a 'windfall,' a εὕρημα or Ἑρμαῖον. Passages like the present and the parallel from Or. 45 § 81 (given above) should be quoted in Liddell and Scott (s. v. εὑρίσκω, 4).

Ἀρχεστράτῳ] Isocr. Trapez. § 43 Πασίων δὲ Ἀρχέστρατόν μοι ἀπὸ τῆς τραπέζης ἑπτὰ ταλάντων ἐγγυητὴν παρέσχεν. (A. Schaefer, *Dem. u. s. Zeit*, III 2, 131.)

δίκαιος] 'Honest.'

ἐπιστεύθη] 'Won his master's confidence,' 'was trusted.' So in Or. 50 § 56, Apollodorus describes the wide extent of his father's connexion and good credit (ἐπεξενῶσθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι).

44. ἐν ἐμπορίῳ καὶ χρήμασιν ἐργαζομένοις] Kennedy: 'In the

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[k] *καὶ ὧν ἐρωτήσειν—Φορμίων secludenda esse censet* Huettner.

[l] *αὑτῷ* Z.

[m] *ἀλλ' ἦ* Bl. *coll. Thuc.* 5, 60, 1; *αλλη* A; *ἀλλὰ tribus brevibus coniunctis codices.*

καὶ χρήμασιν ἐργαζομένοις ἀνθρώποις φιλεργὸν δόξαι
καὶ χρηστὸν εἶναι τὸν αὐτὸν θαυμαστὸν ἡλίκον. οὔτ'
οὖν ἐκείνῳ τοῦθ' οἱ κύριοι παρέδωκαν, ἀλλ' αὐτὸς ἔφυ
958 χρηστός, οὔτε τῷδ' ὁ σὸς πατήρ· σὲ γὰρ ἂν πρότερον
τοῦδε χρηστὸν ἐποίησεν, εἰ ἦν ἐπ' ἐκείνῳ. εἰ δὲ τοῦτ'
ἀγνοεῖς, ὅτι πίστις ἀφορμὴ τῶν[n] πασῶν ἐστι μεγίστη
πρὸς χρηματισμόν, πᾶν ἂν ἀγνοήσειας. χωρὶς δὲ
τούτων πολλὰ καὶ τῷ σῷ πατρὶ καὶ σοὶ καὶ ὅλως τοῖς
ὑμετέροις πράγμασι Φορμίων γέγονε χρήσιμος. ἀλλ',

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[n] A (Bl.); *om. ceteri.*

commercial world and the money-market it is thought a wonderful thing, when the same person shows himself to be both honest and diligent.' The order is: *θαυμαστὸν ἡλίκον ἐστὶν ἀνθρώποις ἐργαζομένοις ἐν ἐμπορίῳ καὶ (ἐργαζομένοις) χρήμασι, τὸν αὐτὸν δόξαι φιλεργὸν καὶ εἶναι χρηστόν*, i.e. a reputation for business-like habits and a really honest character, when combined in the same person, have a striking influence in the money-market and the commercial world.

ἐν should be taken with *ἐμπορίῳ* only, the construction being (as G. H. Schaefer notices) *ἐργάζεσθαι ἐν ἐμπορίῳ* with the preposition, and *ἐργάζεσθαι χρήμασιν* without. Cf. Or. 57 § 31, *ἐν τῇ ἀγορᾷ ἐργάζεσθαι* with Or. 33 § 4, where *τῆς ἐργασίας τῆς κατὰ θάλατταν* is followed by *τούτοις* (sc. *τοῖς χρήμασι*) *πειρῶμαι ναυτικοῖς ἐργάζεσθαι.*

δόξαι is slightly contrasted with *εἶναι*, the outward reputation for business habits with the inward and inherent honesty (cf. *ἔφυ χρηστὸς* below). G. H. Schaefer says, 'dativus regitur a verbo *δόξαι*. Deinde *τὸ ἑξῆς* est: *τὸν αὐτὸν δόξαι εἶναι φιλεργὸν καὶ χρηστόν.*' But the position of *δόξαι* and *εἶναι* makes against this construction. Cf. Aesch. Theb. 592 *οὐ γὰρ δοκεῖν ἄριστος ἀλλ' εἶναι θέλει.*

It is the *combination* of *δόξαι φιλεργὸν* and *εἶναι χρηστὸν* that is insisted on, because a forger, for instance, might have all the air of a painstakiug man of business without being really *χρηστός*: and *vice versa*, a man of unblemished *morale* might never get a name for financial skill, or even ordinary business-like habits.

οὔτε — οὔτε] 'As then his masters did not bequeath to Pasion this virtue, but his honesty was natural, so neither did Pasion bequeath it to Phormion; for he would have made *you* honest rather than him, had it been in his power.'

πίστις ἀφορμὴ] 'If you don't know that for money-making the best capital of all is good credit; then, what *do* you know?'

ἀφορμὴ] Cf. § 12 n.

χωρὶς...πατρὶ] An accidental iambic line. See Isocr. Paneg. § 170 n.

ὅλως] 'Generally.'—On *ὑμετέροις*, cf. § 30 fin.

ἀλλ', οἶμαι...τίς ἂν δύναιτ']

οἶμαι, τῆς σῆς ἀπληστίας καὶ τοῦ σοῦ τρόπου τίς ἂν
45 δύναιτ' ἐφικέσθαι; καὶ δῆτα θαυμάζω πῶς οὐ λογίζῃ[o]
πρὸς σεαυτὸν[p] ὅτι ἔστιν Ἀρχεστράτῳ τῷ ποτὲ τὸν σὸν
πατέρα κτησαμένῳ υἱὸς ἐνθάδε, Ἀντίμαχος, πράττων
οὐ κατ' ἀξίαν, ὃς οὐ δικάζεταί σοι οὐδὲ δεινά φησι
πάσχειν, εἰ σὺ μὲν χλανίδα φορεῖς, καὶ τὴν μὲν λέλυσαι,
τὴν δ' ἐκδέδωκας ἑταίραν, καὶ ταῦτα γυναῖκ' ἔχων
ποιεῖς, καὶ τρεῖς παῖδας ἀκολούθους περιάγει[q], καὶ ζῇς

[o] λογίζῃ Z *et* Bl. *cum* S; λογίζει Dind.

[p] Bekk. ἑαυτὸν Z *cum* S (*cf. Isocr. ad Dem.* § 14 n.).

[q] Cobet (Bl.); περιάγεις *codices.*

Questions of this kind are often best rendered by a negative sentence. 'But no one, I feel, can come up to your covetousness and your general character.' 'Your covetousness &c. no language, I take it, can adequately describe.' ἐφικέσθαι, sc. τῷ λόγῳ. Or. 14 § 1 ὧν οὐδ' ἂν εἷς ἀξίως ἐφικέσθαι τῷ λόγῳ δύναιτο. For the genitive, cf. Isocr. 4 § 187; 9 § 49; 10 § 13.

45. χλανίδα] 'A mantle,' a light upper garment of fine wool. Aeschin. Timarch. § 131, τὰ κομψὰ ταῦτα χλανίσκια ......καὶ τοὺς μαλακοὺς χιτωνίσκους. Dem. Or. 21 § 133 (of Midias) χλανίδας καὶ κυμβία καὶ κάδους ἔχων. Pollux VII 48: χλανὶς δὲ ἱμάτιον λεπτόν. Hermann, *Privatalt.* § 21, p. 177 ed. Blümner.

λέλυσαι] 'Redeemed' from her owner. Herod. II 135 (of Rhodôpis), ἀπικομένη κατ' ἐργασίαν ἐλύθη χρημάτων μεγάλων ὑπ' ἀνδρὸς Μυτιληναίου. Ar. Vesp. 1353 ἐγώ σε...λυσάμενος ἕξω παλλακήν. Dem. Or. 48 § 53 ἑταίραν λυσάμενος ἔνδον ἔχει. [Demosthenes is particularly fond of using perfect passives in the medial sense. P.]

ἐκδέδωκας] Given away in marriage. Or. 59, κατὰ Νεαίρας, § 73 (ἡ ἄνθρωπος) ἐξεδόθη τῷ Διονύσῳ γυνή, and Or. 27 § 69 θυγατέρας παρὰ σφῶν αὐτῶν ἐκδόντας.

καὶ ταῦτα γυναῖκ' ἔχων......] 'And that too, when you have a wife.' In his speech πρὸς Πολυκλέα, Apollodorus, contrary to what might be expected from the present passage, speaks in affectionate terms of his wife. Or. 50 § 61 ἡ γυνὴ ἣν ἐγὼ περὶ πλείστου ποιοῦμαι ἀσθενῶς διέκειτο πολὺν χρόνον.

παῖδας ἀκολούθους] Or. 21 (Midias) § 158 τρεῖς ἀκολούθους ἢ τέτταρας αὐτὸς ἄγων διὰ τῆς ἀγορᾶς σοβεῖ. Xen. Mem. I 7 § 2, σκεύη τε καλὰ κέκτηνται καὶ ἀκολούθους πολλοὺς περιάγονται. (Becker, *Charicles* III 19, ed. Göll, = p. 362 of Eng. ed.; Hermann, *Privatalt.* § 12, p. 85, ed. Blümner.)

περιάγει] Cobet, after quoting the above passage of Xenophon (to alter σκεύη καλὰ into σκευὴν καλήν), takes the hint suggested by the last word περιάγονται, to propose the middle for the active in the present passage. 'Reponendum est necessario περιάγει. Discrimen inter περιά-

ἀσελγῶς[r] *ὥστε καὶ τοὺς ἀπαντῶντας αἰσθάνεσθαι, αὐτὸς δ' ἐκεῖνος πολλῶν ἐνδεής ἐστιν. οὐδὲ τὸν Φορ-* 46
μίων' ἐκεῖνος οὐχ ὁρᾷ. καίτοι εἰ κατὰ τοῦτ' οἴει σοι προσήκειν τῶν τούτου, ὅτι τοῦ πατρός ποτ' ἐγένετο τοῦ σοῦ, ἐκείνῳ προσήκει μᾶλλον ἢ σοί· ὁ γὰρ αὖ σὸς πατὴρ ἐκείνων ἐγένετο. ὥστε καὶ σὺ καὶ οὗτος ἐκείνου γίγνεσθ' ἐκ τοῦδε[s] *τοῦ λόγου. σὺ δ' εἰς τοῦθ' ἥκεις ἀγνωμοσύνης ὥσθ' ἃ προσῆκέ*[t] *σοι τοὺς λέγοντας ἐχθροὺς νομίζειν, ταῦτ' αὐτὸς ποιεῖς ἀνάγκην εἶναι λέγειν, καὶ ὑβρίζεις μὲν σαυτὸν καὶ τοὺς γονέας τεθ-* 47
νεῶτας, προπηλακίζεις δὲ τὴν πόλιν, καὶ ἃ[u] *τῆς τούτων φιλανθρωπίας ἀπολαύσας εὗρεθ' ὁ σὸς πατὴρ καὶ μετὰ ταῦτα Φορμίων οὑτοσί, ταῦτ' ἀντὶ τοῦ κοσμεῖν*

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[r] S. + *οὕτως* Z.
[s] *τοῦδε* FQ (Bl.): *τούτου.*
[t] *προσῆκε* Bl.: *προσήκειν* A, *προσήκει vulgo*, Dind.
[u] + *διὰ* Z *et* Dind. *cum* S. *διὰ om.* Bekk., Voemel, Blass; '*διὰ ab interprete aliquo ad verbi* (*ἀπολαύσας*) *vim explanandam adscriptum est,*' Huettner.

γω et *περιάγομαι* tam perspicuum est quam perpetuum. Si quem *circumductamus* spectaturum aliquid, aut omnino si cui damus operam ut circumiens inspiciat aliquid aut agat, eum *περιάγειν* dicimur; sin autem quis quaqua incedit *secum trahit* aliquem, cuius opera officioque utatur, eum *περιάγεσθαι* dicitur, ut herus pedissequos, aut tyrannus satellites.' (*Novae lectiones*, p. 652.)

46. *οὐδὲ τὸν Φορμίωνα*] 'Nor is Phormio's position unknown to him.' Kennedy. For the double negation, see on § 22. Though Phormion was once the slave of one who was himself a slave of the father of Antimachus, the latter, who is well aware how Phormion has risen, does not grudge him his success and does not hold himself aggrieved by him.—*ὁρᾷ*, § 50 and 23 § 100 *ἤδη δέ τινα εἶδον.*—*ἐκείνῳ*, to Antimachus.

ἀγνωμοσύνης] 'Heartlessness,' 'want of proper feeling'; 'churlishness.' Or. 54 § 14 *ἀγνώμονας καὶ πικρούς.* Or. 14 § 5; 18 §§ 207, 252; 60 § 20. [The polite Greeks had many terms of this kind, *ἀγροικία, σκαιότης, ἀμαθία, ἀπαιδευσία, ἀπειροκαλία.* P.]

47. *ὑβρίζεις ... προπηλακίζεις*] Or. 23 § 120, *ὧν ὕβρισε καὶ προὐπηλάκισεν*, 9 § 60; 18 § 12.

κοσμεῖν καὶ περιστέλλειν] 'Adorning and cherishing' the right of citizenship. Or. 24 § 139 *τὰ πάτρια περιστέλλειν.* [Here it is a metaphor from putting on and gracefully adjusting clothes. Whence he adds *εὐσχημονέστατα.* P.]

καὶ περιστέλλειν, ἵνα καὶ τοῖς δοῦσιν ὡς εὐσχημονέστατ' 959
ἐφαίνετο καὶ τοῖς λαβοῦσιν ὑμῖν, ἄγεις εἰς
μέσον, δεικνύεις, ἐλέγχεις, μόνον οὐκ ὀνειδίζεις οἷον
48 ὄντα[v] σ' ἐποιήσαντ' Ἀθηναῖοι. εἶτ' εἰς τοῦθ' ἥκεις
μανίας (τί γὰρ ἄλλο τις εἴπῃ[w];) ὥστ' οὐκ αἰσθάνει[x]
ὅτι καὶ νῦν ἡμεῖς μὲν ἀξιοῦντες, ἐπειδήπερ ἀπηλλάγη
Φορμίων, μηδέν' ὑπόλογον εἶναι, εἴ ποτε τοῦ σοῦ
πατρὸς ἐγένετο, ὑπὲρ σοῦ λέγομεν, σὺ δὲ μηδέποτ'
ἐξ ἴσου σοι γενέσθαι τοῦτον ἀξιῶν κατὰ σαυτοῦ λέγεις·
ἃ γὰρ ἂν σὺ δίκαια σαυτῷ κατὰ τούτου τάξῃς,
ταὐτὰ[y] ταῦθ' ἥξει κατὰ σοῦ παρὰ τῶν τὸν σὸν πατέρ'
ἐξ ἀρχῆς κτησαμένων. ἀλλὰ μὴν ὅτι κἀκεῖνος ἦν
τινῶν, εἶτ' ἀπηλλάγη τὸν αὐτὸν τρόπον ὅνπερ οὗτος
ἀφ' ὑμῶν, λαβέ μοι ταυτασὶ τὰς μαρτυρίας, [z]ὡς ἐγένετο
Πασίων Ἀρχεστράτου[z].

[v] *οἷα vel οἷον, vel potius (omisso* Ἀθηναῖοι) Ἀθηναῖον *inserebat* H. Zurborg (*Hermes*, xiii, 1878, p. 285).

[w] Bl. *coll.* 8 § 44; 19 § 88 *τί γὰρ ἄλλο τις εἴποι* A, *τί γὰρ ἂν ἄλλο τις εἴποι syllabis brevibus vulg.*

[x] S. *αἰσθάνῃ* Z. [y] S. *τὰ αὐτὰ* Z.

[z–z] '*verba interpolata,*' Huettner.

ἵνα—ἐφαίνετο] Cf. *ὅπως ἠλέγχθη*, § 20. Goodwin's *Moods and Tenses*, § 44, 3 = § 333 ed. 1889. Kühner, § 553, 7.

ἄγεις εἰς μέσον κ.τ.λ.] 45 § 16. 'You drag it into public view, point (the finger of scorn) at it, criticize it; and all but taunt Athens with naturalizing (admitting to the freedom of the city) such a character as yourself.' For the asyndeton, cf. § 52; and Or. 39 § 34 *ἂν δ' ἐπιβουλεύῃς, δικάζῃ, φθονῇς, βλασφημῇς.*

48. *εἰς τοῦθ' ἥκεις μανίας*] Cf. § 46 *εἰς τοῦθ' ἥκεις ἀγνωμοσύνης.* Madvig *Gk. Syntax*, § 50 ad fin. 27 § 24; 33 § 19; 40 §§ 28, 49, 58; 56 § 3.

μηδέν' ὑπόλογον εἶναι] Lit. 'should not be taken into account against him,' 'should not detract from his credit.' A metaphor from book-keeping, appropriate in a speech on banking-stock. Lys. 28 § 13 *οὐδὲ ἀδίκως τούτοις φημὶ ἂν εἶναι ὑπόλογον τὴν ἐκείνου φυγήν*, ib. 4 § 18; Plat. Lach. 189 B.

[Cf. *ὁ παράλογος, ὁ κατάλογος, ὁ μετάμελος*, words formed from a primary use of the simple noun *governed* by the preposition. Translate: 'And now we, in requiring that, as Phormio has left Pasion's service, it should not be remembered against him that he was once Pasion's pro-

ΜΑΡΤΥΡΙΑΙ.

Εἶτα τὸν σώσαντα μὲν ἐξ ἀρχῆς τὰ πράγματα καὶ 49 πολλὰ χρήσιμον αὑτὸν παρασχόντα τῷ πατρὶ τῷ τούτου, τοσαῦτα δ᾽ αὐτὸν τοῦτον ἀγάθ᾽ εἰργασμένον, ὅσ᾽ ὑμεῖς ἀκηκόατε, τοῦτον οἴεται δεῖν ἑλὼν τηλικαύτην δίκην ἀδίκως ἐκβαλεῖν[a]. οὐ γὰρ ἄλλο γ᾽ ἔχοις[aa] οὐδὲν

perty, are in fact speaking in your behalf; while you, in demanding that Phormio shall not be put on the same footing as yourself, are speaking against yourself.' P.]

§§ 49—52. *The defendant's management of the family property was the very saving of the business, and in this and many other respects he has been a great benefactor to the plaintiff's father and to the plaintiff himself; and yet the latter is now demanding a verdict, which, if granted, will turn the defendant out of house and home, a ruined bankrupt, like those whom we remember. The plaintiff's father, esteeming the defendant more highly than his own son, wisely and prudently left him manager of his leases when he died, besides showing his esteem for him during his lifetime. And that esteem was well deserved, for while the other bankers, to whose losses allusion has just been made, did business on their own account, and therefore had to pay no rent to another, and were nevertheless ruined; the defendant not only paid a rent for the bank but kept up the business for the family of the plaintiff, who, so far from being grateful, takes no account of all this, but even persecutes and calumniates him. Our friend, if for a moment we may call him so, little thinks that honesty is the best policy (as is proved by the defendant's prosperity). The plaintiff at any rate is a case in point; he has (if we are to believe him) lost all his money; had he been a man of sound sense he would not have thrown it away.*

49. ἐκβαλεῖν] In Or. 45 κατὰ Στεφάνου A § 70, Apollodorus taunts Stephanus (one of Phormion's witnesses in the present trial) with turning his own uncle out of his patrimony for arrears of debt: τοκίζων...ἐξέβαλες ἐκ τῆς πατρῴας οὐσίας.

οὐ γὰρ ἄλλο γ᾽] i.e. If heavy damages are granted the plaintiff, the penalty will prove none other than (will not fall short of) turning the defendant out of house and home. 'Examine the nature of his property closely and you will soon see whose it really is, and into whose hands it will fall, if (which heaven forbid) the court is misled into condemning him.' The property consists largely of deposits at the bank, invested in different speculations, and incapable of being realized at a moment's notice. If Phormion has to pay damages, there will at once be a run upon his bank; his customers, to secure their property before it is paid away in damages, will claim their

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[a] SrA. ἐκβάλλειν Z.

[aa] Bekk. ἔχοι Z *cum* S.

ἂν ποιῆσαι. εἰς μὲν γὰρ τὰ ὄντ' εἰ βλέποις[b] ἀκριβῶς,
ταῦθ'[c] εὑρήσεις ὧν ἔστιν, ἐὰν[d], ὃ μὴ γένοιτο, ἐξαπατηθῶσιν
50 οὗτοι. ὁρᾷς τὸν Ἀριστόλοχον[e] τὸν Χαριδήμου;
ποτ' εἶχεν ἀγρὸν, εἶτά γε νῦν πολλοί· πολλοῖς γὰρ
ἐκεῖνος ὀφείλων αὐτὸν ἐκτήσατο. καὶ τὸν Σωσίνομον
καὶ τὸν Τιμόδημον καὶ τοὺς ἄλλους τραπεζίτας, οἳ,
ἐπειδὴ[f] διαλύειν ἐδέησεν οἷς ὤφειλον, ἐξέστησαν ἁπάντων
τῶν ὄντων. σὺ δ' οὐδὲν οἴει δεῖν σκοπεῖν οὐδ' 960
ὧν ὁ πατὴρ σοῦ πολλῷ βελτίων ὢν καὶ ἄμεινον[g]
51 φρονῶν πρὸς ἅπαντ' ἐβουλεύσατο· ὃς, ὦ Ζεῦ καὶ θεοὶ,
τοσούτῳ τοῦτον ἡγεῖτο σοῦ πλείονος ἄξιον εἶναι καὶ
σοὶ καὶ ἑαυτῷ[h] καὶ τοῖς ὑμετέροις πράγμασιν, ὥστε
ἀνδρὸς ὄντος σοῦ τοῦτον, οὐ σὲ τῶν ἡμίσεων[i] κατέ-

deposits, and Phormion, like others before him, will be bankrupt.

ἔχοις οὐδὲν ἂν] Notice the strong affinity or attraction that *ἂν* has to the negative; which is the reason of the common hyperthesis *οὐκ ἂν οἶμαί σε ποιεῖν*, &c. Goodwin's *Moods and Tenses*, § 42, 2, n. = § 220, ed. 1889; and Short's *Order of Words in Attic Greek Prose*, p. xciv (3) (*b*).

50. *Ἀριστόλοχον*] In 45 § 64 Stephanus is described as cringing to *Aristolochus the banker* in his prosperity, and deserting his son when in great distress after Aristolochus was ruined.

ποτ' εἶχεν ἀγρὸν κ.τ.λ.] 'He had a farm once,'—'he owned some land in his day; that land has passed to many owners now.' *ποτὲ* (*olim*) is seldom found in so emphatic a position.—*πολλοί* (sc. *ἔχουσι τὸν ἀγρόν*).

διαλύειν] sc. (*τούτους*) *οἷς ὤφειλον* 'to settle with, to satisfy, their creditors.' Cf. Or. 37 § 12 note; 30 § 8; 34 § 40; 49 § 29.

ἐξέστησαν] 'Had to give up,' 'were ousted from.' 45 § 64 *ἀπώλετο καὶ τῶν ὄντων ἐξέστη.* Apatur. § 25, Pantaen. 37 § 49, Antiphon, 2 B § 9, *τῆς οὐσίας ἐκστησόμενος*, Ar. Acharn. 615 (Hermann *Privatalt.* § 71, 3 = *Rechtsalt.* p. 122 Thalheim). The special word for becoming bankrupt is *ἀνασκευάζεσθαι* (contrasted with *κατασκευάζεσθαι* to establish a bank); Dem. Apatur. 33 § 9 *τῆς τραπέζης ἀνασκευασθείσης.* Or. 49 § 68 *τοῖς ἀνεσκευασμένοις τῶν τραπεζιτῶν.* Cf. *infra* § 57, *ἀνατρέψαι*, n.

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[b] Bl.: *βλέπεις codices.*

[c] Bekk. *αὔτὰ* Z *cum* SFQ.

[d] SrA. *ἂν* Z.

[e] S. *Ἀρχίλοχον* Z.

[f] *ἐπειδὴ vulg.* Bl.: *ἐπεὶ* S (Dind.).

[g] + *σοῦ* SA. *om.* Z, Bl.

[h] S. *αὐτῷ* Z.

[i] A (Bl.), *γρ* FQ, *ημισθωσεων* (*ut videtur*) *prima manu* S, *μισθώσεων vulg.* '*Bona dicuntur quae Pasiclis fiebant*' (Blass).

*λιπεν ἐπίτροπον καὶ τὴν γυναῖκ' ἔδωκε καὶ ζῶν αὐτὸν
ἐτίμα,[k] δικαίως, ὦ ἄνδρες Ἀθηναῖοι· οἱ μὲν γὰρ ἄλλοι
τραπεζῖται μίσθωσιν οὐ φέροντες, ἀλλ' [αὐτοὶ][l] αὑτοῖς[m]
ἐργαζόμενοι πάντες ἀπώλοντο, οὗτος δὲ μίσθωσιν φέρων δύο τάλαντα καὶ τετταράκοντα μνᾶς ὑμῖν ἔσωσε
τὴν τράπεζαν. ὧν ἐκεῖνος μὲν χάριν εἶχεν, σὺ δ' οὐδένα* 52
*ποιεῖ λόγον, ἀλλ' ἐναντία τῇ διαθήκῃ καὶ ταῖς ἀπ'
ἐκείνης[n] ἀραῖς, γραφείσαις ὑπὸ τοῦ σοῦ[o] πατρός,
ἐλαύνεις διώκεις συκοφαντεῖς[p]. ὦ βέλτιστ', εἰ οἷόν τε
σὲ τοῦτ' εἰπεῖν, οὐ παύσει[q], καὶ γνώσει[r] τοῦθ', ὅτι
πολλῶν χρημάτων τὸ χρηστὸν εἶναι λυσιτελέστερόν
ἐστι; σοὶ γοῦν, εἴπερ ἀληθῆ λέγεις, χρήματα μὲν*

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[k] *ἐτῖμα.* Z.

[l] *propter hiatum secl.* Bl.

[m] Z, Bl.: *ἑαυτοῖς* S (Dind.).

[n] *ἐπ' ἐκείνης conicit Huettner, exsecrationes istas extra testamentum inscriptas esse arbitratus.*

[o] *add.* SrA. *om.* Z.

[p] *διώκεις συκοφαντεῖς* Bekk. Bl.: *συκοφανταῖς διώκεις* Z *et* Dind. *et* Voemel *cum* SrA.

[q] *παύσῃ* Z.

[r] *γνώσῃ* Z.

51. *δύο τάλ. κ.τ.λ.*] As rent for the bank *and the manufactory*. Cf. §§ 11, 37; 45 § 32.

52. *ταῖς ἀραῖς*] Solemn imprecations on those who violated the conditions of the will.

ἐλαύνεις διώκεις συκοφαντεῖς] 'Harass, prosecute, calumniate.' In the Paris MS *διώκεις* comes rather feebly after the stronger word *συκοφαντεῖς*. The order adopted in the text is to some extent confirmed by the Rhetorician Tiberius (*περὶ σχημάτων*, c. 31), who refers to this passage as an instance of a figure of speech described by another Rhetorician (Alexander, *περὶ σχημάτων*, c. 10) as *ἐπὶ πλεῖον ἐπὶ τοῦ αὐτοῦ νοήματος ἐπιμονὴ μετὰ αὐξήσεως*. His words are: *ἐπιμονὴ δέ ἐστιν ὅταν τις πλείω ῥήματα ὀρθὰ ἀλλήλοις ἐπιβάλλῃ, ὡς ἐν τῷ ὑπὲρ Φορμίωνος πρὸς τὸν* Ἀπολλόδωρον, *ἄγεις, ἐλαύνεις, διώκεις, συκοφαντεῖς. δείνωσιν τὸ σχῆμα ἔχει.* The insertion of *ἄγεις* in this quotation is probably due to a reminiscence of a similar passage in § 47 *ἄγεις εἰς μέσον, δεικνύεις, ἐλέγχεις*.

οὐ παύσει κ.τ.λ.] '*Do* stop, and make up your mind to this truth, that being honourable pays a man better than being very wealthy.'

πολλῶν χρημάτων τὸ χρηστὸν λυσ.] *Honesty is the best policy.* The collocation of the cognate words *χρήματα* and *χρηστὸς* may be only accidental.

σοὶ γοῦν] 'In *your* case, at any rate.' From this primary

τοσαῦτ' εἰληφότι πάντ' ἀπόλωλεν, ὡς φῄς[s]· εἰ δ' ἦσθ' ἐπιεικής, οὐκ ἄν ποτ' αὔτ' ἀνήλωσας.

53 'Αλλ' ἔγωγε μὰ τὸν Δία καὶ θεοὺς πανταχῇ σκοπῶν οὐδὲν ὁρῶ, δι' ὅ, τι[t] ἂν σοὶ πεισθέντες τουδὶ καταψηφίσαιντο. τί γάρ; ὅτι πλησίον ὄντων τῶν ἀδικημάτων ἐγκαλεῖς; ἀλλ' ἔτεσιν καὶ χρόνοις[u] ὕστερον αἰτιᾷ.

[s] *φής rectius scribi docuit Cobet ad Hyper. or. ed.* ii *p.* 108 (Huettner).

[t] *διότι* Bekk. *διὰ τί* Z *et* Voemel (*διατὶ* SA).

[u] +*τοσούτοις* Seager. *ἔτεσι καὶ fortasse ex ἔτεσι κ' corruptum.*

sense *γοῦν* often takes the secondary meaning 'for instance.'

§§ 53—57. *But though (for the sake of argument) the speaker has pointed out the results which would ensue, if the defendant* were *condemned, he protests that he can see no ground for such condemnation. Plaintiff brings forward his charge ever so many years after the alleged offence, and meanwhile has found time for incessant litigation, especially in public causes where his personal interests were but partially affected. While prosecuting so many others, how came he to let Phormion alone? The presumption is that the plaintiff was never really wronged by him, and that the claim now put in, so long after the event, is utterly false and groundless.*

To meet these charges, it will be much to the purpose to produce evidence of the bad character of the plaintiff, and also of the integrity and kindly feeling, the generosity and the public services of the defendant.

53. ἀλλ'...ἀλλ'...ἀλλὰ] For this use of ἀλλὰ cf. Dem. 18 § 24 *τί γὰρ καὶ βουλόμενοι μετεπέμπεσθ' ἂν αὐτοὺς ἐν τοσούτῳ τῷ καιρῷ; ἐπὶ τὴν εἰρήνην; ἀλλ' ὑπῆρχεν ἅπασιν. ἀλλ' ἐπὶ τὸν πόλεμον; ἀλλ' αὐτοὶ περὶ εἰρήνης ἐβουλεύεσθε* (Huettner).

ἔτεσιν καὶ χρόνοις ὕστερον] i.e. 'years and ages later,' 'ever so many years after,' 'years and years later.' The phrase is curious and is perhaps rightly suspected by Seager, who suggests the emendation *ἔτεσι καὶ χρόνοις τοσούτοις ὕστερον* (*Classical Journal* 1829, Vol. 30, No. 59, p. 109). Cf. Or. 59 § 98 *ὕστερον δὲ ὡς πεντήκοντα ἔτεσιν.* It is defended by G. H. Schaefer, who refers to Pausanias x 17 § 3 *ἔτεσι δὲ ὕστερον μετὰ τοὺς Λιβύας ἀφίκοντο.* We may compare Lysias 3 § 39 *οἱ μὲν ἄλλοι...ὀργιζόμενοι παραχρῆμα τιμωρεῖσθαι ζητοῦσιν, οὗτος δὲ χρόνοις ὕστερον.* But the two phrases *ἔτεσιν ὕστερον* and *χρόνοις ὕστερον*, however defensible in themselves separately, do not apparently occur in combination elsewhere; and it may therefore be worth while to suggest either *ἀλλὰ τοσούτοις χρόνοις ὕστερον*, or simply *ἀλλὰ χρόνοις ὕστερον* just as in the passage of Lysias above quoted. In the latter case *ἔτεσι καὶ* may be a corruption of *ἔτεσι κ'* i.e. 'twenty years,' a marginal note explaining *χρόνοις* by referring to § 26, *παρεληλυθότων ἐτῶν πλέον ἢ εἴκοσι*, and § 38, *ἐτῶν* ἀλλ' ὅτι τοῦτον ἀπράγμων ἦσθα τὸν χρόνον; καὶ[v] τίς οὐκ οἶδεν ὅσα πράγματα πράττων οὐ πέπαυσαι, οὐ μόνον δίκας ἰδίας διώκων οὐκ ἐλάττους ταυτησί, ἀλλὰ καὶ[w] δημοσίᾳ συκοφαντῶν καὶ κρίνων τινάς;[x] οὐχὶ Τιμομάχου κατηγόρεις; οὐ[y] Καλλίππου τοῦ νῦν ὄντος

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[v] FQ (Bl.): ἀλλὰ Dind.

[w] FQ (Bl.): *om. vulg.*

[x] *τίνας οὔ*; Dobree.

[y] FQ (Bl.): *οὐχὶ vulg.*

ἴσως εἴκοσι. (Shilleto suggests as a parallel to *ἔτεσι καὶ χρόνοις*, Cic. Verr. II 3 § 21 *tot annis atque adeo saeculis tot.*)

ἀπράγμων] Often used of quiet and easy-going people who shrink from litigation. Or. 40 § 32 *ἀπράγμων καὶ οὐ φιλόδικος*, 42 § 12. Cf. *ἀπραγμοσύνη* and its opposites, *πολυπράγμων*, *πολυπραγμονεῖν*, *πολυπραγμοσύνη*. So also, in the next line, *πράγματα πράττων*, as is clear from the rest of the sentence, refers to the plaintiff's incessant litigation. Or. 27 § 1 *οὐδὲν ἂν ἔδει δικῶν οὐδὲ πραγμάτων*. 54 § 24.

κρίνων τινάς] The force of the sentence is much improved by Dobree's almost certain emendation *κρίνων τίνας οὔ; οὐχὶ Τιμομάχου κατηγόρεις*; where the loss of *οὔ* would be accounted for by *οὐχὶ* (or *οὐ*) following immediately after. Or. 37 § 14 *πολλὰ δεηθέντος καὶ τί οὐ ποιήσαντος*; 47 § 43 *δεομένων ἁπάντων καὶ ἱκετευόντων καὶ τίνα οὐ προσπεμπόντων*; *Felicissime restituit*, says Shilleto of Dobree (F. L. § 231).

Τιμομάχου κ.τ.λ.] All these prosecutions are almost certainly connected with the naval operations extending over the plaintiff's protracted trierarchy of seventeen months in the Thracian waters (in B.C. 362—361). In his speech against Polycles (Or. 50) *Autocles*, *Meno*, and *Timomachus* are mentioned as successive commanders of the fleet (§§ 12—14 and Or. 23 § 104—5); and while he there speaks in general terms of the maladministration of all the commanders (§ 15 *τὰ τῶν στρατηγῶν ἄπιστα*), he uses the strongest language against Timomachus, mainly for his treasonable collusion with an exiled relative, Callistratus. (See next note.) Timomachus was condemned, and put to death (*Schol.* on Aeschin. 1 § 56).

Καλλίππου τοῦ νῦν...ἐν Σικελίᾳ] The context shows that this Callippus (who must not be confounded with the *plaintiff* in the speech of Apollodorus *πρὸς Κάλλιππον* Or. 52) can be none other than 'the son of Philon, of the deme Aexone,' who, at the request of Timomachus, conveyed Callistratus on board an Athenian trireme to Thasos from his place of exile in Macedonia, after Apollodorus had stoutly refused to allow his own vessel to be used for so unlawful a purpose (Or. 50 §§ 46—52). He may, with great probability, be identified with Plato's pupil of that name, with whom another of Plato's disciples, the well-known Dion

ἐν Σικελίᾳ; οὐ πάλιν Μένωνος*; οὐκ* Αὐτοκλέους*; οὐ* 961
54 Τιμοθέου*; οὐκ ἄλλων πολλῶν; καίτοι πῶς ἔχει λόγον*
σέ, Ἀπολλόδωρον *ὄντα, πρότερον τῶν κοινῶν, ὧν μέρος*

of Syracuse, lived on friendly terms at Athens on his banishment from Sicily in B.C. 366. In August 357, Dion, with a small force, started from the island of Zacynthus, and during the absence of Dionysius the younger, made a triumphal entry into Syracuse, attended by his friend Callippus, who was one of his captains, and is described by Plutarch as *λαμπρὸς ἐν τοῖς ἀγῶσι καὶ διάσημος.* Ultimately, in the spring or summer of 353, Dion was assassinated by Callippus, who after usurping the government for thirteen months, was defeated in battle by a brother of the younger Dionysius, and *after wandering about in Sicily* and establishing himself in Southern Italy, at Rhegium, was shortly after (probably in B.C. 350) himself killed by his friends, with the very sword (as the story runs) with which he murdered Dion. (Plutarch, *Dion*, 17, 28—58; Plato, Ep. vii; Diodorus, xvi *passim.*)

In the present passage Apollodorus is stated to have prosecuted Callippus *τοῦ νῦν ὄντος ἐν Σικελίᾳ.* The Athenian fleet (with Callippus) reached Athens from the Thracian coasts in Feb. 360, and Callippus started for Syracuse from Zacynthus in Aug. 357, so that the plaintiff's prosecution of him cannot well be placed later than the spring of 357, though it may have been two years earlier in 359, and in any case about the same time as his prosecutions of Timomachus, Meno and Autocles. (A. Schaefer *Dem. u. s. Zeit*, III 2, 158—161.)

If the present speech is as late as 350 B.C., Callippus was still alive; at any rate, the news of his death cannot have reached Athens. *Introd.* p. xxix.

οὐ Τιμοθέου;] The charge against Timotheus, the celebrated Athenian general, may have been connected with his defeat at Amphipolis, B.C. 360. At first sight the allusion might be explained of the plaintiff's *private* suit (Or. 49) against the general for sums borrowed from Pasion (cf. above § 36 n.); but the context appears to point expressly to public indictments (*δημοσίᾳ* in the previous sentence and *τῶν κοινῶν* in the next); though this reason is not conclusive, as the first part of the previous sentence refers to *δίκαι ἴδιαι.*

54. *Ἀπολλόδωρον ὄντα κ.τ.λ.*] *aculeatum et amarum dictum.* Reiske. It is not like *Apollodorus*, it is inconsistent with his true character, to be going out of his way to undertake public prosecutions where his own interests were but partially affected, to the neglect of private suits in which, as he says, he has a direct and an important concern. If Apollodorus had been really wronged by Phormion, he would have prosecuted him before. For the emphatic reference to the name, cf. Or. 30 § 20; 37 § 38; also Cicero, ad Atticum v 2, '...cum Hortensius veniret et infirmus et tam longe et *Hortensius.*'

μέρος] 'In part alone,' as only one aggrieved person out

ἠδικοῦ, δίκην ἀξιοῦν λαμβάνειν, ἢ τῶν ἰδίων ὧν νῦν
ἐγκαλεῖς, ἄλλως τε καὶ τηλικούτων ὄντων, ὡς σὺ φῄς;
τί ποτ' οὖν ἐκείνων κατηγορῶν τόνδ' εἴας; οὐκ ἠδι-
κοῦ, ἀλλ', οἶμαι, συκοφαντεῖς νῦν. ἡγοῦμαι τοίνυν
ὦ ἄνδρες Ἀθηναῖοι πάντων μάλιστ' εἰς τὸ πρᾶγμα
εἶναι τούτων μάρτυρας παρασχέσθαι· τὸν γὰρ συκο-
φαντοῦντ' ἀεὶ τί χρὴ νομίζειν νῦν ποιεῖν; καὶ νὴ 55
Δί' ἔγωγ' ὦ ἄνδρες Ἀθηναῖοι νομίζω πάνθ' ὅσα τοῦ
τρόπου τοῦ Φορμίωνός ἐστι σημεῖα καὶ τῆς τούτου
δικαιοσύνης καὶ φιλανθρωπίας, καὶ ταῦτ' εἰς τὸ
πρᾶγμ' εἶναι πρὸς ὑμᾶς εἰπεῖν. ὁ μὲν γὰρ περὶ πάντ'
ἄδικος τάχ' ἄν, εἰ τύχοι, καὶ τοῦτον ἠδίκει· ὁ δὲ μη-
δένα μηδὲν ἠδικηκώς, πολλοὺς δ' εὖ πεποιηκὼς ἑκών,
ἐκ τίνος εἰκότως ἂν[x] τρόπου τοῦτον μόνον ἠδίκει τῶν
πάντων; τούτων τοίνυν τῶν μαρτυριῶν ἀκούσαντες
γνώσεσθε τὸν ἑκατέρου τρόπον[y]. Ἴθι δὴ λαβὲ[z] τὰς 56
πρὸς Ἀπολλόδωρον τῆς πονηρίας.

ΜΑΡΤΥΡΙΑΙ.

Ἆρ' οὖν ὅμοιος οὑτοσί; σκοπεῖτε. λέγε.

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[x] SrA. ἂν εἰκότως Z.

[y] ΜΑΡΤΥΡΙΑΙ *om.* Reiske, G. H. Schaefer, Bl.

[z] *καὶ codices;* λέγε G. H. Schaefer (*λέγε καὶ* Dind.); λαβέ Bl.

of many. So *τὸ μέρος* in Herod. I 120, II 173, and *μέρος τι* in Thuc. IV 30, and Dem. 50 § 35. Cf. n. on 45 § 70 *τὸ σαυτοῦ μέρος*.

πάντων μάλιστ' εἰς τὸ πρᾶγμα] 'Very *much* to the purpose,' '*anything* but irrelevant,' 57 § 7 *εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγειν*. The depositions about to be produced on the general character of plaintiff and defendant, are liable to objection on the ground of their being beside the question. The speaker here meets that objection beforehand.

55. *πάντ'*] Masc. cf. Xen. *Anab.* I 6 § 8 *περὶ ἐμὲ ἄδικος*.

56. *τὰς*] sc. *μαρτυρίας*. 'Testimony to the plaintiff's bad character.'

The four sets of depositions may probably be grouped as follows: (1) General evidence of Phormion's good character. (2) On his opponent's bad character. (3) On Phormion's generosity to those in need (§ 58, *ἀκούετε...οἷον ἑαυτὸν τοῖς δεηθεῖσι παρέχει*). (4) On Phormion's public benefactions (§§ 56, 57, *χρήσιμος τῇ πόλει*, and § 58 ad fin.).

ἆρ' οὖν ὅμοιος οὑτοσί; σκοπεῖτε]

ΜΑΡΤΥΡΙΑΙ.

Ἀνάγνωθι δὴ καὶ ὅσα δημοσίᾳ χρήσιμος τῇ πόλει γέγον' οὑτοσί.

ΜΑΡΤΥΡΙΑΙ.

57 Τοσαῦτα τοίνυν ὦ ἄνδρες Ἀθηναῖοι Φορμίων χρήσιμος τῇ πόλει γεγονὼς[a] καὶ πολλοῖς ὑμῶν, καὶ οὐδέν' οὔτ' ἰδίᾳ οὔτε δημοσίᾳ κακὸν οὐδὲν εἰργασμένος, οὐδ' ἀδικῶν Ἀπολλόδωρον τουτονί, δεῖται καὶ ἱκετεύει καὶ ἀξιοῖ σωθῆναι, καὶ ἡμεῖς συνδεόμεθ' οἱ 962 ἐπιτήδειοι ταῦθ'[b] ὑμῶν. ἐκεῖνο δ' ὑμᾶς ἀκοῦσαι δεῖ. τοσαῦτα γὰρ ὦ ἄνδρες Ἀθηναῖοι χρήμαθ' ὑμῖν ἀνεγνώσθη προσηυπορηκώς[c], ὅσ' οὔθ' οὗτος οὔτ' ἄλλος

Look here, upon this picture, and on this.—λέγε. Thus used by Dem. in 28 §§ 11, 12, 13 only (Sigg, p. 431).

§ 57 to end. *The defendant not only implores your protection, but claims it as his right. Generous in his benefactions and apart from his actual resources enjoying credit for at least as much besides, he is enabled by means of that good credit to be of advantage, not to himself alone, but to yourselves as well. Do not suffer so worthy, so energetic, so generous a man of business to be ruined by this abominable blackguard. Most of the plaintiff's statements you will simply disregard as baseless calumny, but you must order him to prove either that there was no will* (cf. § 33), *or that there is some other lease besides that produced on our side* (cf. § 9), *or that he did not give the defendant a release from all claims* (§§ 15, 16), *or that the laws allow a claim to be set up when once such a release has been given* (§§ 23—5), *Challenge him to prove any one of these points, or anything like them. If, for want of such proof, he resorts to ribaldry, don't attend to him, don't allow his loud and shameless assertions to mislead you; but carefully remember what you have heard on our side. If so, you will give a verdict which will be true to your consciences, true to the cause of justice.* (*The clerk shall read you the law and the remaining depositions.*)

That is our case, gentlemen: I need not detain you any longer.

57. δεῖται καὶ ἱκετεύει καὶ ἀξιοῖ σωθῆναι] *Requests, implores* and *claims* your protection. Or. 27 § 68, and 57 § 1, δέομαι καὶ ἱκετεύω καὶ ἀντιβολῶ.

χρήμαθ' ὑμῖν ἀνεγνώσθη προσηυπορηκὼς] Kennedy translates:

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[a] FQ (Bl.); γεγονὼς τῇ πόλει A; γεγονὼς καὶ τῇ πόλει S (Dind.).

[b] *legendum fortasse* ταὔθ'.

[c] προσευ- Z *cum* S.

οὐδεὶς κέκτηται. πίστις μέντοι Φορμίωνι παρὰ τοῖς
εἰδόσι καὶ τοσούτων καὶ πολλῷ πλειόνων χρημάτων,[d]
δι' ἧς καὶ αὐτὸς αὑτῷ καὶ ὑμῖν χρήσιμός ἐστιν. ἃ 58
μὴ προῆσθε[e], μηδ' ἐπιτρέψητ' ἀνατρέψαι τῷ μιαρῷ

[d] +ἐστὶ (Dind.). *om.* FQ (Bl.).

[e] Bekk. *cum* Ar. προεισθε *prima manu* S. πρόησθε Z (*vulgo et correctus* S).

'It has been read out to you, that he has acquired such a heap of money as neither he nor any one else possesses.' This can hardly be right, particularly as such a blunt assertion of Phormion's affluence would be a very invidious statement for his friends to make, and would not ingratiate him in the eyes of the court.

εὐπορεῖν χρήματα (or χρημάτων) has two senses, (1) 'to be well off'; (2) 'to supply money.' 'εὐπορεῖν,' says Lobeck (*Parerga* p. 595), 'non solum significat *abunde habere*...sed etiam *suppeditare: ἐπικουρίαν ταῖς χρείαις ἐξευπορεῖν* Plato Legg. XI 153; χρῆμαθ' ὑμῖν προσευπορηκώς Dem. Phorm. 962. Cf. Apat. 894, 14 (=Or. 33 § 7 εὐπορήσειν αὐτῷ δέκα μνᾶς): de reb. Chers. p. 94 (συνευποροῦντας ἐκείνῳ χρημάτων); Boeot. p. 1019 (=Or. 40 § 36 χρήματα εὐπορήσας); Neaer. 1369, 10; Aeschin. Timarch. p. 121; Lycurg. Leocr. p. 233; quibus inter se collatis intelligitur, quanta sit utriusque notionis contagio, a Romanis quoque unius verbi *suppetendi* angustiis conclusa.' (See note on Or. 40 § 36, and cf. 33 § 6 τριάκοντα μνᾶς συνευπορῆσαι.)

Having regard to the context, we must here take the second sense of εὐπορεῖν, and explain the passage as follows: 'The depositions read aloud to you show that the defendant has (lit. he has been recited to you as having) provided you on emergencies with larger sums of money than his own (οὗτος i.e. our friend, the defendant's) or any one else's private fortune amounts to; but then he has *credit*, &c.' The sentence πίστις μέντοι κ.τ.λ. shows how it came to pass that Phormion was enabled, as a capitalist in the enjoyment of extensive credit in the commercial world, to advance sums of money larger than the private resources of any single individual.

πίστις] 'Credit.' Cf. § 44 πίστις ἀφορμή κ.τ.λ.

58. ἃ μὴ προῆσθε] 'Do not throw this away,' i.e. 'do not sacrifice these advantages to the interests of the plaintiff.'

μηδ' ἐπιτρέψητ' ἀνατρέψαι] Possibly an unintentional collocation of two compounds of τρέπειν. One word, however, might suggest the other. 'Do not suffer this wretch to overturn it,' i.e. overthrow the defendant from his high position and good credit.

[The metaphor is perhaps from overthrowing a fabric of wealth, as in Aesch. Pers. 165, μὴ μέγας πλοῦτος κονίσας οὖδας ἀντρέψῃ ποδὶ ὄλβον ὃν Δαρεῖος ἦρεν οὐκ ἄνευ θεῶν τινός, i.e. 'iniurioso pede *proruere*.' P.] In Theb. 1076 the context shows that the *τούτῳ [ἀνθρώπῳ]*[f], *μηδὲ ποιήσητ᾽ αἰσχρὸν παράδειγμα, ὡς τὰ τῶν ἐργαζομένων καὶ μετρίως ἐθελόντων ζῆν τοῖς βδελυροῖς καὶ συκοφάνταις ὑπάρχει παρ᾽ ὑμῶν λαβεῖν· πολὺ γὰρ χρησιμώτερ᾽ ὑμῖν παρὰ τῷδ᾽ ὄνθ᾽ ὑπάρχει. ὁρᾶτε γὰρ αὐτοὶ καὶ ἀκούετε τῶν μαρτύρων,*

metaphor is not from an earthquake, but from the capsizing of a ship, *πόλιν μὴ ἀνατραπῆναι μηδ᾽ ἀλλοδαπῶν κύματι φωτῶν κατακλυσθῆναι*, and the way in which the word is used by the orators proves that they also regarded it as a nautical metaphor: Dem. 9 § 69 *ὅπως μηδεὶς ἀνατρέψει (τὸ σκάφος)*, 19 § 250 *οὐχ ὅπως ὀρθὴ πλεύσεται (ἡ πόλις) προείδετο, ἀλλ᾽ ἀνέτρεψε καὶ κατέδυσε.* Aeschin. 3 § 158 *πλοῖον ἀνατρέψῃ* and *τὴν πόλιν ἄρδην ἀνατετροφότα.* It is metaphorically applied in Dem. 18 § 296 to the *ὅροι τῶν ἀγαθῶν καὶ κανόνες*, in 25 Aristog. 1 § 28 to *τὰ κοινὰ δίκαια* and in § 32 to *τὴν πόλιν*; in Aeschin. 1 § 187 to *τὴν κοινὴν παιδείαν*, in § 190 to *πόλεις*; in Deinarchus 1 § 30 to *πράγματα ἢ ἴδια ἢ κοινά*, in § 88 to *τὴν πόλιν* (with *ἐπιτρέψετε* in the previous clause), and in 3 § 4 to *ἅπαντα τὰ ἐν τῇ πόλει.*

In Liddell and Scott (ed. 6) the phrase *ἀνατρέπειν τράπεζαν* is explained 'to upset a banker's table, i.e. to make him bankrupt.' The only passage quoted is Dem. 403, 7, where however there is no reference whatever to a bankruptcy, but only to the overturning of a table towards the close of a disorderly banquet. (The reference to Dem. 743, 1 [= Timocr. § 136] in ed. 7 should be to the *Scholium* on that passage, quoted below.)

In Andocides de Mysteriis, § 130, we have a curious passage stating that in Athens there was a story current among the old wives and the little children, that the house of Hipponicus was haunted by an unquiet spirit that overturned his table (*Ἱππόνικος ἐν τῇ οἰκίᾳ ἀλιτήριον τρέφει, ὃς αὐτοῦ τὴν τράπεζαν ἀνατρέπει*). *πῶς οὖν* (the orator continues) *ἡ φήμη ἡ τότε οὖσα δοκεῖ ὑμῖν ἀποβῆναι; οἰόμενος γὰρ Ἱππόνικος υἱὸν τρέφειν, ἀλιτήριον αὐτῷ ἔτρεφεν, ὃς ἀνατέτροφεν ἐκείνου τὸν πλοῦτον, τὴν σωφροσύνην, τὸν ἄλλον βίον ἅπαντα.* But the only place, so far as I can find, in which the phrase has a distinct reference to bankruptcy is the Scholium on Dem. Timocr. § 136, where *δανεῖσαι τοῖς τραπεζίταις* is followed by *ἔτυχεν ὕστερον ἀνατραπῆναι τὰς τραπέζας* (Baiter and Sauppe, *Orat. Att.* II 119, 6, 35). See § 50 *ἐξέστησαν*, n.

αἰσχρὸν παράδειγμα κ.τ.λ.] 'A disgraceful precedent that the property of men in business, who live respectable lives, may be obtained from you by miscreants and pettifoggers.' Kennedy. *ὑπάρχει*, 'that the laws allow,' 'that it is a condition of your polity.'

πολὺ γὰρ—ὑπάρχει] Or. 38 § 28 *ἃ καὶ ὑμῖν ἔστιν ἐπ᾽ ὠφελείᾳ μείζονι παρ᾽ ἡμῖν ὄντα ἢ παρὰ τούτοις.* Lysias Or. 18 §§ 20, 21; 19 § 61; 21 §§ 12—14.

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[f] *propter hiatum secl.* Bl.

οἷον ἑαυτὸν τοῖς δεηθεῖσι παρέχει. καὶ τούτων οὐδὲν 59
εἵνεκα τοῦ λυσιτελοῦντος εἰς χρήματα πεποίηκεν, ἀλλὰ
φιλανθρωπίᾳ καὶ τρόπου[g] ἐπιεικείᾳ. οὔκουν ἄξιον, ὦ
ἄνδρες Ἀθηναῖοι, τὸν τοιοῦτον ἄνδρα προέσθαι τούτῳ,
οὐδὲ τηνικαῦτ' ἐλεεῖν ὅτ' οὐδὲν ἔσται τουτῳὶ[h] πλέον,
ἀλλὰ νῦν ὅτε κύριοι καθέστατε σῶσαι· οὐ γὰρ ἔγωγ'
ὁρῶ καιρὸν ἐν ᾧ τινι[i] μᾶλλον ἂν[k] βοηθήσειέ τις αὐτῷ.
τὰ μὲν οὖν πόλλ' ὧν Ἀπολλόδωρος ἐρεῖ, νομίζετ' 60
εἶναι λόγον[l] καὶ συκοφαντίας, κελεύετε δ' αὐτὸν
ὑμῖν[m] ἐπιδεῖξαι, ἢ ὡς οὐ διέθετο ταῦθ' ὁ πατήρ, ἢ ὡς
ἔστι τις ἄλλη μίσθωσις πλὴν ἧς[n] ἡμεῖς δείκνυμεν, ἢ
ὡς οὐκ ἀφῆκεν αὐτὸν διαλογισάμενος τῶν ἐγκλημάτων
ἁπάντων, ἃ ἔγνω θ'[o] ὁ κηδεστὴς ὁ τούτου καὶ οὗτος

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[g] καὶ τρόπων *vel* τρόπου καὶ Bl.

[h] τουτῳὶ Bl. *coll.* § 4; τούτῳ *vulg.*; πλέον τούτῳ FQ, τούτῳ *fortasse delendum putat* Bl. *coll.* §§ 35, 42.

[i] ᾧ τινι Bl. *coll.* 8 § 77, *et supra* § 53, *ubi* διὰ τί *pro* δι' ὅτι *scriptum.*

[k] μᾶλλον ἂν *propter hiatum* Bl.: ἂν μᾶλλον *vulg.*

[l] λόγους *maluit* Reiske.

[m] Bekk. *om.* Z *et* Bekker st. *cum* S *ubi per imprudentiam* (*ut videtur*) ὑμῖν *in versu extremo praetermissum.*

[n] Bekk. ἣν Z *cum* Sr (*etiam* FQ).

[o] *propter hiatum addidit* Bl.

59. τοῦ λυσιτελ. εἰς χρήματα] *Pecuniary* advantage; instead of being placed between the article and participle, as would be most natural, εἰς χρήματα is reserved for a more emphatic position.

καιρὸν ἐν ᾧ τινι] The manuscript reading ἐν τίνι involves a confusion between ἐν τίνι καιρῷ, and καιρὸν ἐν ᾧ, κ.τ.λ. Cf. Or. 56 § 24 n., and Plat. Rep. p. 399 E, βίου ῥυθμοὺς ἰδεῖν κοσμίου τε καὶ ἀνδρείου τίνες εἰσίν· οὓς ἰδόντα κ.τ.λ. Cf. Isocr. ad Dem. § 5 συμβουλεύειν, ὧν χρὴ...ὀρέγεσθαι καὶ τίνων ἔργων ἀπέχεσθαι, n.

60. λόγον καὶ συκοφ.] i.e. empty talk and baseless misrepresentation. For λόγος, 'mere talk,' cf. Or. 20 § 101 εἰ δὲ ταῦτα λόγους καὶ φλυαρίας εἶναι φήσεις, ἐκεῖνό γ' οὐ λόγος, 8 § 13 λόγοι καὶ προφάσεις, 10 § 101 λόγους καὶ φλυαρίας. Similarly λόγοι in 30 § 34 and λόγος in 20 § 92.

ἐπιδεῖξαι] Plaintiff is challenged to *prove* his statements, not to rest content with vague calumny.

διαλογισάμενος] See § 23.

ἐγκλημάτων ἃ ἔγνω] Claims which were the subject of the

αὐτὸς συνεχώρησεν, ἢ ὡς διδόασιν οἱ νόμοι δικάζεσθαι τῶν οὕτω πραχθέντων, ἢ τῶν τοιούτων τι δεικνύναι.

61 ἐὰν δ' ἀπορῶν αἰτίας καὶ βλασφημίας λέγῃ καὶ κακολογῇ[p], μὴ προσέχετε τὸν νοῦν, μηδ' ὑμᾶς ἡ τούτου 963
κραυγὴ καὶ ἀναίδει' ἐξαπατήσῃ. ἀλλὰ φυλάττετε καὶ μέμνησθ' ὅσ' ἡμῶν ἀκηκόατε. κἂν ταῦτα ποιῆτε, αὐτοί τ' εὐορκήσετε καὶ τουτονὶ[q] δικαίως σώσετε, ἄξιον ὄντα νὴ τὸν Δία καὶ θεοὺς ἅπαντας.

62 Ἀνάγνωθι λαβὼν αὐτοῖς τὸν νόμον καὶ τὰς μαρτυρίας τασδί.

ΝΟΜΟΣ. ΜΑΡΤΥΡΙΑΙ.

Οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν· οἶμαι[r] γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων. ἐξέρα τὸ ὕδωρ.

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[p] καὶ κακολογῇ *delenda esse existimat* Huettner, 'nam κακολογεῖν idem declarat, quod βλασφημίας λέγειν, et verbum satis rarum est apud antiquos scriptores; cf. Lys. 8 § 5, Pseudodem. 25 § 94.'

[q] τουτονὶ A (Bl. *coll.* § 4): τοῦτον. [r] S. οἴομαι Z (cf. § 18).

award (γνῶσις) of Deinias, 'ἃ ἔγνω, *quae disceptavit.*' G. H. Schaefer. Cf. § 17 init.

δεικνύναι] sc. κελεύετε, 'tell him to *try if* he can show,' &c. To be distinguished from ἐπιδεῖξαι just above.

61. λέγῃ] '*Go on* talking.'

φυλάττετε καὶ μέμνησθε] 'Keep in mind and remember.' Or. 20 §§ 163, 167; 23 § 219 ταῦτα φυλάττετε καὶ μεμνημένοι κάθησθε, 45 § 87.

62. τὸν νόμον καὶ τὰς μαρτυρίας] The context does not show what law or what depositions are referred to: possibly another νόμος of the same general purport as that recited before § 25 (ὧν μὴ εἶναι δίκας) and further evidence to facts or to the defendant's character (ἄξιον ὄντα, § 61).

οὐκ οἶδ' ...... εἰρημένων] The same sentence *verbatim* is found at the close of Or. 20 (Lept.), 38 (Nausimach.), and 54 (Conon); and also at the end of the 7th and 8th speeches of Isaeus.

ὅ τι δεῖ] Not 'what I should say further,' (which would require πλέον), but '*why I should* say any more,' '*what need there is* for my saying any more.' Similarly in 41 § 25, ἡγοῦμαι μὲν οὐδὲν ἔτι δεῖν πλείω λέγειν, we must be careful to take οὐδὲν before δεῖν and not after λέγειν.

ἐξέρα τὸ ὕδωρ] 'Pour out the water.' See Midias, § 129. (Cf. ἐξερᾶν τοὺς λίθους in Ar. Ach. 341, and τὰς ψήφους in Vesp. 993.) The only other passage where the phrase is found is at the

end of Or. 38, where the *whole* of this short epilogue recurs.

The speaker having concluded his speech within the legal limits of time measured by the *κλεψύδρα*, pointedly calls on the attendant to empty the 'water-clock' (54 § 36). The court is thus reminded that the speaker has spared them a longer speech, and the defendant gets the credit of having so good a cause that the orator does not find it necessary to avail himself of the full time at his disposal.

The result of Phormion's plea is thus stated by Apollodorus Or. 45 § 6 *οὕτω διέθηκε τοὺς δικαστὰς ὥστε φωνὴν μηδ' ἡντινοῦν ἐθέλειν ἀκούειν ἡμῶν· προσοφλὼν δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιωθεὶς, ἀλλ' ὑβρισθεὶς ὡς οὐκ οἶδ' εἴ τις πώποτε ἄλλος ἀνθρώπων, ἀπῄειν βαρέως, ὦ ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων.*

XLV.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

ΥΠΟΘΕΣΙΣ.

Ὅτε Ἀπολλόδωρος ἔκρινε Φορμίωνα τῆς τραπέζης ἀφορμὴν ἐγκαλῶν, ὁ δὲ τὴν δίκην παρεγράψατο, Στέφανος[a] μετ' ἄλλων τινῶν ἐμαρτύρησε Φορμίωνι, ὡς ἄρα ὁ μὲν Φορμίων προυκαλεῖτ' Ἀπολλόδωρον, εἰ μή φησιν ἀντίγραφ' εἶναι τῶν 1101 διαθηκῶν τῶν τοῦ πατρὸς Πασίωνος, ἃ Φορμίων[b] παρέσχεν, ἀνοῖξαι τὰς διαθήκας αὐτάς, ἃς ἔχει καὶ παρέχεται Ἀμφίας, Ἀπολλόδωρος δ' ἀνοίγειν οὐκ ἠθέλησεν, ἔστι δ' ἀντίγραφα τάδε τῶν διαθηκῶν τῶν Πασίωνος. ταύτην ἐμαρτύρησαν τὴν μαρτυρίαν οἱ περὶ Στέφανον, τοῦ Ἀπολλοδώρου λέγοντος κατὰ τοῦ Φορμίωνος, ὡς ἄρα τὰς διαθήκας πέπλακε καὶ τὸ

Orationem Demosthenis non esse putabant Z.

Argumentum in ultima columna antecedentis orationis 36 *addidit manus recentior in* S.

[a] ὁ Στέφανος S (Dind.).

[b] Φορμίωνος Πασίωνος παρασχεῖν *vulg.*; Πασίωνος, παρασχεῖν Z.
β α γ
φορμίωνι πασίωνος παρασχεῖν S; *hinc* Πασίωνος, Φορμίωνι παρασχεῖν Dind. Π., ἃ Φορμίων παρέσχεν Bl.

1. *τραπέζης ἀφορμὴν ἐγκαλῶν*] See § 2 of *ὑπόθεσις* to Or. 36. On *παρεγράψατο* see *ib.* § 3.

2. *Στέφανος ἐμαρτύρησε κ.τ.λ.*] See *infra* § 8. The *ἄλλοι τινές* are called Ἔνδιος and Σκύθης in the document there quoted.

4. *εἰ μή φησιν*] 'P. made A. a proposal, that if A. denies that the copies put in by Phormion are copies of the will of his father Pasion, he shall open the will itself which is in the custody of, and is produced by, Amphias.'

7. *ἔστι δ' ἀντίγραφα κ.τ.λ.*] The clause is continued from *ὡς*, 'that the document produced *is* a copy of Pasion's will.'

10. *πέπλακε...σκευώρημα*] Or.

ὅλον πρᾶγμα σκευώρημ᾽ ἐστίν. ἡττηθεὶς τοίνυν τὴν δίκην Ἀπολλόδωρος ὑπὲρ τῆς μαρτυρίας ὡς ψευδοῦς οὔσης τῷ Στεφάνῳ δικάζεται.

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1 Καταψευδομαρτυρηθεὶς ὦ ἄνδρες Ἀθηναῖοι καὶ παθὼν ὑπὸ Φορμίωνος ὑβριστικὰ καὶ δεινὰ δίκην παρὰ τῶν αἰτίων ἥκω ληψόμενος παρ᾽ ὑμῖν. δέομαι δὲ πάντων ὑμῶν καὶ ἱκετεύω καὶ ἀντιβολῶ πρῶτον

36 § 33 πλάσμα καὶ σκευώρημα ὅλον, and *infra* § 42.

§§ 1, 2. Exordium (προοίμιον). *Having been defeated by false testimony in my suit against Phormion, I have come into court to claim a verdict against those who compassed that outrageous and atrocious wrong. I ask the jury to give me a friendly and favourable hearing; and, if I make good my case, to grant me the redress which is my due.*

In the former trial, the defendant Stephanus in particular gave false evidence against me, prompted by corrupt motives; and I propose to prove this from his own testimony. A brief recital of the relations between Phormion and myself will help the jury to form an opinion on the villainy of Phormion and the falsehood of his witnesses.

The Exordium is not unlike that of Or. 54, κατὰ Κόνωνος, where, as here, the προαύλιον (Ar. Rhet. III 14) or, as we should say, the key-note of the whole speech is struck in the opening words: ὑβρισθεὶς ὦ ἄνδρες δικασταὶ καὶ παθὼν ὑπὸ Κόνωνος κ.τ.λ. Cf. 21 § 1; 57 § 1.—The appeal *ad captandam benevolentiam*, πρῶτον μὲν εὐνοϊκῶς ἀκοῦσαί μου, also occurs in Or. 54 § 2, and similarly the *formula* εἶτ᾽ ἐὰν (ἠδικῆσθαι καὶ παρανενομῆσθαι) δοκῶ, βοηθῆσαί μοι τὰ δίκαια (cf. 21 § 7; 27 § 3; 37 § 3; 38 § 2), and lastly the promise of brevity, ὡς ἂν οἷός τε ὦ διὰ βραχυτάτων (cf. 36 § 3; 27 § 3; 37 § 3).

καταψευδομαρτυρηθεὶς] 'Crushed by' (or 'having been the victim of') 'false testimony.' Cf. Or. 21 § 136; 33 § 37; and Plat. Gorg. 472 B. Harpocr. καταψευδομαρτυρησάμενος· ἀντὶ τοῦ παρασχὼν τὰ ψεύδη (*an* ψευδῆ?) μαρτυρήσοντας. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. The lexicographer intended doubtless to refer to Or. 29 (ὑπὲρ Φάνου πρὸς Ἄφοβον ψευδομαρτυριῶν) § 6, where the *middle* participle explained by him is to be found. The mistake possibly arose out of a confusion between the titles of the two speeches, κατὰ Στεφάνου and ὑπὲρ Φάνου (A. Schaefer in *Neue Jahrb.* 1870, vol. 101 p. 523).

ὦ ἄνδρες Ἀθηναῖοι] occurs 24 times in Or. 36, and 21 times in this speech, but never in the rest of the speeches of Apollodorus in private causes, though found 9 times in Or. 59, *in Neaeram*, delivered by the same speaker in a public cause (Huettner).

παθὼν — ὑβριστικά] Or. 23 § 56.

δέομαι ... ἱκετεύω ... ἀντιβολῶ]

μὲν εὐνοϊκῶς ἀκοῦσαί μου· μέγα γὰρ τοῖς ἠτυχηκόσιν,
ὥσπερ ἐγώ, δυνηθῆναι περὶ ὧν πεπόνθασιν εἰπεῖν καὶ
εὐμενῶς ἐχόντων ὑμῶν ἀκροατῶν τυχεῖν· εἶτ' ἐὰν ἀδι-
2 κεῖσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια. ἐπιδείξω δ'
ὑμῖν τουτονὶ Στέφανον καὶ μεμαρτυρηκότα τὰ[c] ψευδῆ,
καὶ δι' αἰσχροκέρδειαν[d] τοῦτο πεποιηκότα, καὶ κατήγο- 1102
ρον αὐτὸν αὑτοῦ γιγνόμενον· τοσαύτη περιφάνεια τοῦ

[c] *om.* Z *cum libris.* *addidit* Reiskius.

[d] Z, Bl. *αἰσχροκερδίαν ubique* S (Bekk., Dind.).

Cf. *infra* § 85, Or. 27 (Aphobus A) § 68, and 57 (Eubul.) § 1; Lysias Or. 18 § 27, and 21 § 21. Such combinations of two or three nearly synonymous verbs are very common in the undisputed speeches of Demosthenes (e.g. Or. 36 § 47 *ἄγεις εἰς μέσον, δεικνύεις, ἐλέγχεις*; *ib.* 52 *ἐλαύνεις, συκοφαντεῖς, διώκεις*; *ib.* 57 *δεῖται καὶ ἱκετεύει καὶ ἀξιοῖ*; Or. 54 § 33 *δικάζομαι καὶ μισῶ καὶ ἐπεξέρχομαι*). The speech *ὑπὲρ Φορμίωνος* alone contains nearly forty such passages; of the speeches delivered by Apollodorus, the first oration against Stephanus has more than 30, while in the rest there is hardly anything of the kind, though in the second speech against Stephanus, § 28, we have *δέομαι καὶ ἱκετεύω*. (J. Sigg in *Neue Jahrb., Suppl.* vi p. 419.)

μέγα γὰρ—τυχεῖν] Or. 57 § 1 *τοῖς γὰρ ἐν κινδύνῳ καθεστηκόσιν εἰκὸς εὐνοϊκωτέρους ὑπάρχειν.*

εὐμενῶς] Almost equivalent to *εὐνοϊκῶς* in the last sentence; *εὐμενής*, however, is not so trivial a word as *εὔνους*. The former is frequent in Attic verse, the latter is generally found in prose; the former is most often used of the gracious condescension of a deity; the latter of the kindly feelings of ordinary human beings. Or. 4 § 45, *τὸ τῶν θεῶν εὐμενές*, illustrates the rule, while the exceptions in the present passage and Ep. 3 § 45, and in Isocr. 4 § 43 and in Plato, Rep. 607 D, may be paralleled from Herod. VII 237 *ξεῖνος δὲ ξείνῳ ... εὐμενέστατον πάντων.*

βοηθῆσαι—δίκαια] Or. 54 § 2 = *βοηθοῦντας ἀποδοῦναί μοι τὰ δίκαια* (54 § 42).

2. *ἐπιδείξω—γνώσεσθε*] Or. 36 § 3.

μεμαρτυρηκότα τὰ ψευδῆ] 'guilty of having given false evidence.' Elsewhere in the speech *τὰ ψευδῆ* occurs 16 times; *ψευδῆ* only in § 41, where it has a predicative sense. In Or. 46 *τὰ ψ.* alone is used; in Or. 47, *τὰ ψ.* is found 8 times, *ψ.* in §§ 4, 11, 79 (see Blass, in *Rheinisches Museum* 1889, p. 20).

τοσαύτη περιφάνεια κ.τ.λ.] 'So transparent is the case.' 'So plain and clear from every point of view.' Or. 29 § 1 (also of false witness) *ῥᾳδίως ἐξελέγξας διὰ τὴν περιφάνειαν τῶν πραγμάτων.* Isaeus, Or. 7 § 28 *τοσαύτη περιφάνεια τῆς ἐμῆς ποιήσεως ἐγένετο παρ' αὐτοῖς...ἐπὶ τοσούτων μαρτύρων γέγονεν ἡ ποίησις.* Cf. Hom. Od. ι 426 *περισκέπτῳ ἐνὶ χώρῳ*, and *ib.* ν 476 *ἐν περιφαινομένῳ.*

πράγματός ἐστιν. ἐξ ἀρχῆς δ' ὡς ἂν οἷός τ' ὦ διὰ βραχυτάτων εἰπεῖν πειράσομαι τὰ πεπραγμένα μοι πρὸς Φορμίωνα, ἐξ ὧν ἀκούσαντες τήν τ' ἐκείνου[e] πονηρίαν καὶ τούτους, ὅτι τὰ ψευδῆ μεμαρτυρήκασι, γνώσεσθε.

Ἐγὼ γὰρ ὦ ἄνδρες δικασταὶ πολλῶν χρημάτων 3 ὑπὸ τοῦ πατρὸς καταλειφθέντων μοι, καὶ ταῦτα Φορμίωνος ἔχοντος, κἄτι πρὸς τούτοις τὴν μητέρα γήμαντος τὴν ἐμὴν ἀποδημοῦντος ἐμοῦ δημοσίᾳ τριηραρ-

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[e] *τήν τε τούτου* Z *cum libris.* *τήν τ' ἐκείνου* Bekker *cum γρ.* FQB. Cf. § 40.

ἐξ ὧν...γνώσεσθε] This being the syntax, *ἀκούσαντες* must be taken by itself, 'when you have heard it.'

ἐκείνου] sc. *Φορμίωνος.*

§§ 3—8. Narrative (*διήγησις*). *My father Pasion left behind him at his death a large property which got into the hands of Phormion, who also married Pasion's widow, my mother Archippe, during my absence from Athens on public service. On my return, I threatened Phormion with legal proceedings in consequence of this marriage, but my case did not come on; and afterwards a reconciliation was brought about. Subsequently, however, on Phormion's refusing to fulfil his engagements and attempting to rob me of the banking-stock leased him by my father, I was compelled to prosecute him at the earliest opportunity.*

Phormion thereupon put in a special plea in bar of action, and brought forward false witnesses to show that I gave him a discharge from all further claims, and to attest to a lease which in fact was a fabrication and to a will that never existed.

The result of his plea, which gave him the advantage of the first hearing, was that the jury would not listen to me at all; I was fined for failing to make good my case and left the court in high dudgeon at my ill-treatment. On reflexion, however, I feel that the jury, in their ignorance of the real facts, could not, on the evidence, have found any other verdict; but I have a right to be indignant with the false witnesses who brought about that result,—and with Stephanus in particular whose evidence shall be read to the court. (The evidence is read.)

ὦ ἄνδρες δικασταί] occurs only 11 times in this speech, and only twice in Or. 36 (Huettner).

δημοσίᾳ] To be taken with *ἀποδημοῦντος*, '*cum publice* (*in causa publica*) *abessem*'; Or. 48 § 24 *δημοσίᾳ τούτου ἀποδημοῦντος στρατευομένου.* The fondness of the Greeks for participles is shown by the addition of *τριηραρχοῦντος* which is subordinate to, and explanatory of, *ἀποδημοῦντος.* Or. 36 § 25, and Madv. *Gk. Synt.* § 176, d.

χοῦντος ὑμῖν (ὃν τρόπον δ᾽, οὐκ ἴσως καλὸν υἱεῖ περὶ
μητρὸς ἀκριβῶς εἰπεῖν), ἐπειδὴ καταπλεύσας ᾐσθόμην
καὶ τὰ πεπραγμέν᾽ εἶδον, πόλλ᾽ ἀγανακτήσας
καὶ χαλεπῶς ἐνεγκών, δίκην μὲν οὐχ οἷός τ᾽ ἦν ἰδίαν
4 *λαχεῖν (οὐ γὰρ ἦσαν ἐν τῷ τότε καιρῷ δίκαι, ἀλλ᾽ ἀνεβάλλεσθ᾽*
ὑμεῖς διὰ τὸν πόλεμον), γραφὴν δ᾽ ὕβρεως

This trierarchy of Apollodorus may almost certainly be connected with the negociations between Athens and the elder Dionysius towards the close of his career. It appears from a decree discovered near the Propylaea in 1837, and restored by A. Kirchhoff in the *Philologus* for 1857 (xii p. 571—8), that Athenian ambassadors were sent to Syracuse in the summer of B.C. 369 and in B.C. 368. Cf. *C. I. A.* II i 51, 52; Dittenberger's *Sylloge*, 72, 73. The trierarchy may be identified with that of Or. 53 § 5, and probably belongs to the *later* of these two embassies in B.C. 368, as we read in Or. 46 § 21 *ἐγὼ μὲν ἀπεδήμουν τριηραρχῶν, τετελευτήκει δ᾽ ὁ πατὴρ πάλαι, ὅτε οὗτος ἔγημε. πάλαι*, though a vague word, shows at any rate that a considerable time elapsed between the death of Pasion in B.C. 370 (Or. 46 § 13), and his widow's marriage with Phormion. (Im. Hermann, *de tempore*, etc. p. 9; A. Schaefer, *Dem. und seine Zeit*, III 2, 146; and Lortzing, *Apollodorus*, p. 3.)

ὃν τρόπον δὲ (sc. *ἔγημε*)—*ἀκριβῶς εἰπεῖν*] Cf. § 27 *διεφθάρκει ἣν ἐμοὶ μὲν οὐ καλὸν λέγειν.* (Similarly in 40 § 8 *τῇ τούτων μητρὶ ἐπλησίασεν ὅντινα δή ποτ᾽ οὖν τρόπον· οὐ γὰρ ἐμὸν τοῦτο λέγειν ἐστί.*) This affectation of dutiful delicacy of feeling towards his mother in the early portions of the speech is rather inconsistent with the apparently gratuitous insinuation towards its close, where he broaches the suspicion that his own brother Pasicles (who was eight years old at his father Pasion's death) was really her son *by Phormion* (§ 84).

οὐκ ἴσως] 21 §§ 15, 126; 14 § 23.—*ἀκριβῶς εἰπεῖν*, 8 § 38; 41 § 17.—*ᾐσθόμην καὶ...εἶδον*, 18 § 133 *τὸ πρᾶγμ᾽ αἰσθομένη καὶ ἰδοῦσα.*—*ἀγανακτήσας καὶ χαλεπῶς ἐνεγκών*, 21 §§ 108, 123; 23 § 167. *ἐνεγκών*, 21 § 48; 24 § 141; 23 § 170; 54 § 9; *ἐνέγκαντες* and *ἐπενέγκας* in non-Demosthenic speeches, 49 § 51; 59 § 5 (Huettner).

δίκην ἰδίαν...γραφὴν ὕβρεως] Cf. Or. 54 § 1, ad fin.

4. *πόλεμον*] This suspension of lawsuits, which the plaintiff found in force on returning from his trierarchy in B.C. 368, was due to the hostilities between Athens and Thebes in the period between the battle of Leuctra in B.C. 371, and the death of Epaminondas at the battle of Mantineia in B.C. 362. The courts were not sitting for ordinary business, perhaps because there was no pay for the dicasts (cf. Or. 39 § 17); and the only process that was available under the circumstances was a public action. So (just below) *δικῶν οὐκ οὐσῶν* means, as the courts continued closed for

γράφομαι πρὸς τοὺς θεσμοθέτας αὐτόν. χρόνου δὲ
γιγνομένου, καὶ τῆς μὲν γραφῆς ἐκκρουομένης, δικῶν
δ' οὐκ οὐσῶν, γίγνονται παῖδες ἐκ τούτου τῇ μητρί.
καὶ μετὰ ταῦτ' (εἰρήσεται γὰρ ἅπασα πρὸς ὑμᾶς ἡ
ἀλήθει' ὦ ἄνδρες δικασταί) πολλοὶ μὲν καὶ φιλάν-
θρωποι λόγοι παρὰ τῆς μητρὸς ἐγίγνοντο καὶ δεήσεις
ὑπὲρ Φορμίωνος τουτουί, πολλοὶ δὲ καὶ μέτριοι καὶ
ταπεινοὶ παρ' αὐτοῦ τούτου. ἵνα δ' ὦ ἄνδρες Ἀθη- 5
ναῖοι συντέμω ταῦτα, ἐπειδὴ ποιεῖν τ' οὐδὲν ᾤετο δεῖν
ὧν τόθ' ὡμολόγησε, καὶ τὰ χρήματ' ἀποστερεῖν ἐνε-
χείρησεν ἃ τῆς τραπέζης εἶχεν ἀφορμήν, δίκην ἠναγ-

private suits. ὑμεῖς refers to the citizens generally, who are said, in the medial sense, 'to have had the sessions (τὰς δίκας) postponed.' Cf. Meier and Schömann, p. 187, n. 116 Lipsius.

θεσμοθέτας] Isocr. Or. 20, κατὰ Λοχίτου § 2, περὶ τῆς ὕβρεως... ἔξεστι τῷ βουλομένῳ τῶν πολιτῶν γραψαμένῳ πρὸς τοὺς θεσμοθέτας εἰσελθεῖν εἰς ὑμᾶς. (Meier and Schömann, pp. 79, 397 Lips.)

χρόνου γιγνομένου—γραφῆς ἐκκρουομένης] See note on Or. 36 § 2, ἵν' ἐκκρούοντες χρόνους ἐμποιῶμεν. For χρόνου δὲ γιγνομένου, Reiske ingeniously, but perhaps unnecessarily, proposes χρόνου δ' ἐγγιγνομένου, which at any rate modifies the slight inelegance of the triple repetition γιγνομένου ...γίγνονται...ἐγίγνοντο. χρόνος ἐγγίγνεται is found in Or. 19 § 324; 37 § 2; 47 §§ 29, 30, 32, 63. χρ. γενομένου occurs in Hdt. I 73, and Diod. xx 109; cf. Lycurg. 21 ἐπειδὴ χρόνος ἐγένετο.

φιλάνθρωποι λόγοι] 'Kindly overtures' (*blanditiae*, G. H. Schaefer). Cf. 6 § 1; 23 § 165; 19 §§ 220, 315; de Corona § 6 and § 298 οὔτε φιλανθρωπία λόγων οὔτ' ἐπαγγελιῶν μέγεθος, Midias § 75 οὔτε κλαύσαντα οὔτε δεηθέντα ...οὔτε φιλάνθρωπον...οὐδ' ὁτιοῦν πρὸς τοὺς δικαστὰς ποιήσαντα, where perhaps *bribery* is tacitly meant. (Cf. Shilleto on *Fals. leg.* § 117.)

μέτριοι...ταπεινοί] i.e. 'both moderate and reasonable in their terms.' Fals. leg. § 15 μετρίους λόγους, where Shilleto quotes Ulpian: ἤγουν ἐπιεικεῖς, φιλανθρώπους.

5. ἵνα...συντέμω] Or. 39 § 4; 37 § 21. The reason for the speaker's hurrying over this part of his statement is partly because the overtures of reconciliation on Phormion's side, which he takes credit to himself for candidly admitting, are really more to Phormion's credit than to his own.

ἐπειδὴ ποιεῖν κ.τ.λ.] Or. 36 § 33.

ἀποστερεῖν] 'withhold'; 36 § 13; 21 § 44; 27 §§ 6, 12, 18, 37 &c.

δίκην] i.e. the suit κατὰ Φορμίωνος, to meet which a special plea is put in on Phormion's behalf in Or. 36. The words ἐπειδὴ τάχιστα ἐξουσία ἐγένετο are possibly meant as a partial

κάσθην αὐτῷ λαχεῖν, ἐπειδὴ τάχιστ᾽ ἐξουσία ἐγένετο[f]. 1103
γνοὺς δ᾽ οὗτος ὅτι πάντ᾽ ἐξελεγχθήσεται καὶ κάκιστος
ἀνθρώπων περὶ ἡμᾶς γεγονὼς ἐπιδειχθήσεται, μηχα-
νᾶται καὶ κατασκευάζει ταῦτα, ἐφ᾽ οἷς οὑτοσὶ Στέ-
φανος[g] τὰ ψευδῆ μου κατεμαρτύρησεν. καὶ πρῶτον μὲν
παρεγράψατο τὴν δίκην, ἣν ἔφευγε [Φορμίων][h], μὴ
εἰσαγώγιμον εἶναι· ἔπειτα μάρτυρας, ὡς ἀφῆκ᾽ αὐτὸν
τῶν ἐγκλημάτων, παρέσχετο ψευδεῖς, καὶ μισθώσεώς
τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενο-
6 μένης. προλαβὼν δέ μου πρότερος[i] λέγειν διὰ τὸ
παραγραφὴν εἶναι καὶ μὴ εὐθυδικίᾳ εἰσιέναι, καὶ ταῦτ᾽

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[f] *fortasse* ἐξεγένετο Bl.

[g] Bl. *coll.* §§ 7, 36, 40, 53, 56. Στέφανος οὑτοσὶ (*syllabis brevibus*) *vulgo.*

[h] '*secl. quo sententia plane obscuratur*' Bl.

[i] μου ὥστε πρότερον *codices; et propter hiatum et propter syllabas breves suspectum a* Blassio, *qui* μου πρότερος *scripsit.* τὸ πρότερος *Rhet. Gr.* v 112, iv 291 Walz; cf. Or. 18 § 7 ἐκ τοῦ πρότερος λέγειν. '*Malim* πρότερος,' Dobree.

reply (they are at any rate the only reply given in this speech) to that portion of Phormion's plea which traversed his opponent's suit on the ground that it infringed the 'statute of limitations' (Or. 36 § 26). But it may be noticed on Phormion's side that at least 18 years had elapsed since the death of Apollodorus' father, and eight since that of his mother, before the suit was instituted; and during the interval the plaintiff found time for ever so many lawsuits in cases where his private interests were but partially concerned (Or. 36 § 53).

γνοὺς κ.τ.λ.] Or. 59 § 68 γνοὺς Στέφανος οὑτοσὶ ὅτι ἐξελεγχθήσεται.—πάντ᾽. Acc. Or. 19 § 161; 8 § 9; 41 § 29; 54 § 30; 28 § 1.—μηχανᾶται καὶ κατασκευάζει. Antiphon 1 § 28. The former verb occurs in § 24 and Or. 19 § 21: the latter, in §§ 13, 20, 22, 39, 41, 42 of this speech (Huettner).

παρεγράψατο κ.τ.λ.] See notes on p. 2. For μάρτυρας ὡς ἀφῆκα, see Or. 36 §§ 24, 25; and for the depositions on the 'lease,' *ib.* § 4, and on the 'will,' *ib.* § 7.

6. πρότερος λέγειν] Cf. Isocr. παραγραφὴ πρὸς Καλλίμαχον § 1 φεύγων τὴν δίκην πρότερος λέγω τοῦ διώκοντος. Cf. Or. 34 § 4 κατηγορεῖν τοῦ διώκοντος, and *ibid.* § 1 ἐν τῷ μέρει λεγόντων. Meier and Schömann, p. 250 Lips.—προλαβὼν = φθάσας, 'having got the advantage of me.'

εὐθυδικίᾳ εἰσιέναι] We might expect the acc. as in Or. 34 § 4 εὐθυδικίαν εἰσιόντα, οὐ κατηγορεῖν τοῦ διώκοντος (cf. Or. 36 *Arg.*

ἀναγνοὺς καὶ τἄλλ' ὡς αὐτῷ συμφέρειν ἡγεῖτο, ψευσάμενος, οὕτω διέθηκε τοὺς δικαστάς, ὥστε φωνὴν μηδ' ἡντινοῦν ἐθέλειν ἀκούειν ἡμῶν· προσοφλὼν δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιωθείς, ἀλλ' ὑβρισθεὶς[k] ὡς οὐκ οἶδ' εἴ τις πώποτ' ἄλλος ἀνθρώπων, ἀπήειν βαρέως ὦ ἄνδρες Ἀθηναῖοι καὶ χαλεπῶς φέρων.
λόγον δ' ἐμαυτῷ διδοὺς εὑρίσκω τοῖς δικάσασι μὲν τότε 7
πολλὴν συγγνώμην οὖσαν (ἐγὼ γὰρ αὐτὸς οὐκ ἂν οἶδ' ὅ τι ἄλλ' εἶχον ψηφίσασθαι, τῶν πεπραγμένων μὲν μηδὲν εἰδώς, τὰ δὲ μαρτυρούμεν' ἀκούων), τούτους δ' ἀξίους ὄντας ὀργῆς, οἳ τῷ τὰ ψευδῆ μαρτυρεῖν αἴτιοι τούτων ἐγένοντο. περὶ μὲν δὴ τῶν ἄλλων τῶν μεμαρτυρηκότων, ὅταν πρὸς ἐκείνους εἰσίω, τότ' ἐρῶ· περὶ

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[k] *ἀλλ' ὑβρισθεὶς add.* Q (Bl. *coll.* 21 § 6).

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l. 25 *ἅπτεται τῆς εὐθείας* n.); but the dat. is found in Isaeus, Or. 6 (Philoctem.) §§ 3, 43, 53 *μὴ διαμαρτυρίᾳ κωλύειν ἀλλ' εὐθυδικίᾳ εἰσιέναι.*

τὴν ἐπωβελίαν] The legal fine of one-sixth of the amount claimed (lit. one obol in each drachma, or 6 obols), inflicted on the plaintiff in private suits (see on Or. 56 § 4) if he failed to secure a fifth part of the votes. In the present case, Apoll. had to pay, in addition to costs, a sixth part of 20 talents, 3^t 20^m = £666, if (with Goodwin) we reckon the talent at £200. (Boeckh, *Publ. Econ.* Book III chap. 10, pp. 473, 482 trans. Lamb.)—For *οὐδὲ λόγου τυχεῖν* cf. § 19 *ἀπεκλείσθην τοῦ λόγου τυχεῖν. Haec verba non idem valent quod quae antecedunt φωνὴν—ἀκούειν, sed Apollodorus, quia causa ceciderat, actione principali desistere coactus est* (Huettner).

ὑβρισθεὶς κ.τ.λ.] Or. 21 § 6 *ὑβρισμένος οἷ' οὐκ οἶδ' εἴ τις ἄλλος*, cf. 54 § 43.

7. *λόγον δ' ἐμαυτῷ διδοὺς*] Frequent in Hdt.; not found in Dem.—*τοῖς δικάσασι κ.τ.λ.*, 21 § 75; 59 § 8 (Huettner).

οὐκ ἂν οἶδ' ὅ τι ἄλλ' εἶχον] *ἂν* is often attracted to the negative and separated from its verb (e.g. *εἶχον*) by the interposition of *οἶδα* (as here), *οἴομαι*, *δοκῶ*, *φημί* (as elsewhere). (Cf. note on Or. 37 (Pant.) § 16 *οὐδ' ἂν εἴ τι γένοιτο ᾠήθην δίκην μοι λαχεῖν*, also Goodwin's *Moods and Tenses* § 42, 2, and Shilleto on Thuc. I 76 § 4.) It is quite unnecessary to accept the suggestion of Cobet *οὐκ οἶδ' ἂν ὅ τι* (*Nov. Lect.* 581), or that of Dobree '*distingue αὐτὸς οὐκ ἄν, οἶδ' ὅτι, ἄλλο εἶχον.*'

τούτους κ.τ.λ.] 59 § 5 *τῷ οὖν ἐξαπατήσαντι τῷ λόγῳ τοὺς δικαστὰς δίκαιον ὀργίζεσθαι, οὐ τοῖς ἐξαπατηθεῖσι.*

πρὸς ἐκείνους εἰσίω] sc. *εἰς δικαστήριον.* 'When I proceed

ὧν δ' οὑτοσὶ Στέφανος μεμαρτύρηκεν, ἤδη πειράσομαι
8 διδάσκειν ὑμᾶς. λαβὲ δ' αὐτὴν τὴν μαρτυρίαν καὶ
ἀνάγνωθί μοι, ἵν' ἐξ αὐτῆς ἐπιδεικνύω. λέγε· σὺ δ'
ἐπίλαβε τὸ ὕδωρ.

ΜΑΡΤΥΡΙΑ.

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[1]Στέφανος Μενεκλέους, Ἀχαρνεύς, Ἔνδιος Ἐπιγένους

against *them*,' Endius and Scythes, contrasted with *οὑτοσί*, the present defendant. Compare § 17 *ἐπὶ τοῦτον ᾖα*, infr. § 41 *ὅταν εισίω πρὸς*...and Or. 54 § 32 ad fin. *εισιέναι*, or *εισελθεῖν*, is used of *either* litigant (e.g. in Or. 40 § 1, of the plaintiff; and *ib.* § 5 of the defendant); and also of the lawsuit itself in Or. 34 § 18. Cf. Or. 34 § 1 *οὐδεμίαν πώποτε δίκην πρὸς ὑμᾶς εισήλθομεν, οὔτ' ἐγκαλοῦντες οὔτ' ἐγκαλούμενοι ὑφ' ἑτέρων.*

8. *ἐξ αὐτῆς*] *ex ipsa*, perhaps, rather than *ex ea*.—On *ἐπίλαβε τὸ ὕδωρ* cf. note on Or. 54 § 36.

Στέφανος Μενεκλέους κ.τ.λ.] Like many, if not most of the documents inserted in the speeches of the Attic Orators, this deposition has been regarded as spurious. Its purport is to be found in §§ 9—26 and in Or. 46 § 5. The names of Teisias, Cephisophon and Amphias are given in §§ 10, 17, and Or. 46 § 5. Stephanus and Teisias, as well as Pasion and Apollodorus, are assigned to the deme Acharnae in the documents only (§§ 28, 46), not in the speech itself. *Στέφανος Ἀχαρνεὺς* appears in an inscription as trierarch in B.C. 322, but this (it has been suggested) is not likely to be the defendant in the present action, for at that date the latter, if (as is not improbable) he was about the same age as Apollodorus, would be about seventy; and we can hardly suppose that one who was so poor a patriot as not to have undertaken any public services up to the age of 47 or thereabouts (§ 66), would have embarked on a trierarchy at so advanced an age. But the name was far from uncommon, and the *deme* may (it is thought) have been assigned at random by the writer of the document.

The name *Ἔνδιος Ἐπιγένους Λαμπτρεὺς* is given in one MS only (Q). An inscription, however, of B.C. 325 gives the name *Κριτόδημος Ἐνδίου Λαμπτρεὺς* whose father may be the *Ἔνδιος* of the text, though the name is not a rare one.

Lastly, *Σκύθης* is naturally an uncommon name for an *Athenian*, though found as such in an inscription. The name of his father, *Ἀρματεύς*, does not occur elsewhere, except in Stephanus of Byzantium, who makes it mean 'an inhabitant of Harma' which he wrongly supposes to be a *deme* of Attica, whereas it was really the name of a part of the range of Parnes. (Abridged from A. Westermann's

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[1] *testimonium omisit* S. '*uncos in hac quoque oratione additamentis huius generis addidimus*' Z (Dind.).

Λαμπτρεύς[m], Σκύθης Ἁρματέως Κυδαθηναιεὺς μαρτυροῦσι παρεῖναι πρὸς τῷ διαιτητῇ Τεισίᾳ Ἀχαρνεῖ, ὅτε προὐκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μή φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος τὸ γραμματεῖον ὃ ἐνεβάλετο Φορμίων εἰς τὸν ἐχῖνον, ἀνοίγειν τὰς διαθήκας τὰς Πασίωνος, ἃς παρεῖχε[n] πρὸς τὸν διαιτητὴν Ἀμφίας ὁ Κηφισοφῶντος κηδεστής· Ἀπολλόδωρον δὲ οὐκ ἐθέλειν ἀνοίγειν· εἶναι δὲ τάδ'[o] ἀντίγραφα τῶν διαθηκῶν τῶν Πασίωνος.[1]

Ἠκούσατε μὲν τῆς μαρτυρίας ὦ ἄνδρες δικασταί, 9

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[m] Λαμπρεύς Q (Bekker 1824). '*immo* Λαμπτρεύς' Z, *et* Bekker st.

[n] Reiske, *coll.* § 10, 46 § 5; παρείχετο *vulgo* (*quod testimonii spurii indicium putat Huettner*).

[o] τὰ Bekker (Dind.). ταῦτα (Dobree). τάδ' (Sauppe, cf. *Arg.* ἔστι δ' ἀντίγραφα τάδε). '*Sequebatur enim quod hic deest testimonium Pasionis, cf.* § 10 *ad fin.*' Z.

Untersuchungen über die in die Attischen Redner eingelegten Urkunden, pp. 105—8.)

Blass, however, sees no ground for rejecting the documents in this speech; the names of the witnesses, as Westermann himself admits, are supported by the evidence of inscriptions (Blass *Att. Ber.* III 409). Their genuineness has been maintained in a dissertation by Kirchner, 1883; and attacked by Schucht, *De documentis oratoribus Atticis insertis*, 1892.

προὐκαλεῖτο...ἀνοίγειν] 'Challenged him (in the event of his denying that the document Phormion put into the box was a copy of Pasion's will), to open the will of Pasion which &c.' On ἐχῖνον see note on Or. 54 § 27.

εἶναι τάδ' ἀντίγραφα κ.τ.λ.] τὰ ἀντίγραφα τῶν διαθηκῶν cannot be construed as the subject, and unless we accept either τάδ' or ταῦτ' for τὰ we must rather awkwardly get the predicate out of τὰ ἀντίγραφα. The speaker himself expresses the sense better in §§ 10, 23 (Westermann, *u. s.* p. 108).

§§ 9—14. *It is deposed that Phormion challenged me to open the will, produced (it is alleged) before the arbitrator; that I refused the challenge and would not open the 'will'; that the document to which they depose is a counterpart of the original will; and then follows the copy.*

Let us examine this evidence. In the first place, why should one have refused to open the document?

'Oh! to prevent the jury from hearing the terms of the will.'

But, I reply, the witnesses deposed to the will as well as to the challenge, and thus the jury would hear the terms of the 'will' publicly recited from the 'copy' whether I opened it or not. What was I to gain by refusing? Why! even if they had

νομίζω δ' ὑμᾶς, εἰ καὶ μηδὲν τῶν ἄλλων αἰσθάνεσθέ πω, τοῦτό γ' αὐτὸ θαυμάζειν, τὸ τὴν μὲν ἀρχὴν τῆς μαρτυρίας εἶναι πρόκλησιν, τὴν δὲ τελευτὴν διαθήκην. οὐ μὴν ἀλλ' ἔγωγ' οἶμαι δεῖν, ἐπειδὰν, ὃ τῶν μεμαρτυρημένων ὡσπερεὶ κεφάλαιόν ἐστ', ἐπιδείξω ψεῦδος ὄν, τηνικαῦτ' ἤδη καὶ περὶ τῶν τοιούτων ποιεῖσθαι τοὺς λόγους. ἔστι δὴ μεμαρτυρημένον αὐτοῖς προκα-

given no *challenge, and had made a mere assertion, and if some one had produced a document purporting to be Pasion's will, it would have been my interest to challenge them and to open the will. In this case,* (1) *had the contents differed from the terms of the deposition, I should have appealed to the bystanders to bear witness to the discrepancy, which would have been a strong proof that the rest of their case was got up for a purpose.* (2) *Had the contents agreed, I should have required the producer himself to give evidence. Had he consented, I should have had in him a responsible witness; had he declined, here again I should have had sufficient proof that the affair was a fabrication. On this hypothesis, I should have had to deal with one witness only, instead of with many (as my opponents have made it out); and of course I should have preferred the former, and so would every one else. For where (as here) there is room for cool calculation, no one would be so foolish as to abandon his own interests and do what would damage his case. And yet, by deposing that I refused to open the 'will,' these witnesses represented me as doing what is improbable, unreasonable, and contrary to all experience.*

In brief, the first point which the plaintiff attempts to make in proving the evidence to be false, is that, assuming he was challenged to open the 'will,' he sees no reason why he should have refused a challenge which it would have been to his interest to accept. On the other side, it may be noticed that the plaintiff had a strong reason for refusing to open the 'will,' and thus give express recognition to an important document, the contents of which, as he himself says elsewhere (§ 21), were detrimental to his own interests. (A. Schaefer, *Dem.* III 2, p. 171.) So far, the case clearly tends against Apollodorus.

9. οὐ μὴν ἀλλ'...] 'Nevertheless,' 'however,' 'not but that.' The ellipse which this combination of particles always involves may be here supplied by some such words as οὐ μὴν (ὑμᾶς τοῦτο χρὴ θαυμάζειν) or (παραλείπειν τοῦτο χρὴ) ἀλλ' ἔγωγε κ.τ.λ. Kühner's *Gk. Gr.* § 535, 7.

τῶν μεμαρτ.—κεφάλ.] sc. ἐμὲ οὐκ ἐθέλειν ἀνοίγειν. Cf. 21 § 18 δύο ταῦθ' ὡσπερεὶ κεφάλαι' ἐφ' ἅπασι...ἐπέθηκεν.—ψεῦδος ὄν, § 41. ψευδὲς is not found in Dem.—τηνικαῦτα sc. in §§ 15—28.—ποιεῖσθαι τοὺς λόγους, *verba facere*; ποιεῖσθαι λόγους, *agere, disceptare cum aliquo* (Huettner).

λεῖσθαι Φορμίων' ἀνοίγειν τὰς διαθήκας, ἃς παρέχειν
πρὸς τὸν διαιτητὴν Τεισίαν Ἀμφίαν τὸν Κηφισοφῶν-
τος κηδεστήν· ἐμὲ δ' οὐκ ἐθέλειν ἀνοίγειν· εἶναι δ'
ἃς αὐτοὶ μεμαρτυρήκασι διαθήκας ἀντιγράφους ἐκεί-
νων. εἶθ' ἡ διαθήκη γέγραπται. ἐγὼ τοίνυν περὶ μὲν 11
τοῦ προκαλεῖσθαί μ' ἢ μὴ ταῦτα Φορμίων' οὐδέν πω
λέγω, οὐδ' ὑπὲρ τοῦ τὰς διαθήκας ἀληθεῖς ἢ ψευδεῖς
εἶναι, ἀλλ' αὐτίχ' ὑμᾶς περὶ τούτων διδάξω· ἀλλ', ἃ
μεμαρτυρήκασι, μή μ' ἐθέλειν τὸ γραμματεῖον ἀνοί-
γειν, ὡδὶ δὴ σκοπεῖτε[p]. τοῦ τις ἂν εἵνεκ'[q] ἔφευγεν ἀνοί-
1105 γειν τὸ γραμματεῖον; ἵν' ἡ διαθήκη νὴ Δία μὴ φανερὰ
γένοιτο τοῖς δικασταῖς. εἰ μὲν τοίνυν μὴ προσεμαρτύ- 12
ρουν τῇ προκλήσει τὴν διαθήκην οὗτοι, λόγον εἶχέ
τιν' ἂν τὸ φεύγειν ἔμ' ἀνοίγειν τὸ γραμματεῖον· προσ-
μαρτυρούντων δὲ τούτων καὶ τῶν δικαστῶν ὁμοίως

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[p] *ὡδὶ δὴ σκοπεῖτε vulgo per se positum, a Blassio autem cum sequentibus verbis coniunctum, cum antecedentibus coniunxi.*

[q] *εἵνεκεν* Z *cum codd.*; *ἕνεκα* Dind.

10. *ἃς παρέχειν*] sc. *μαρτυροῦσι*. For the infinitive in the relative clause influenced by the principal verb, cf. Or. 36 § 25.

εἶθ' ἡ διαθήκη γέγραπται] 'Then follows a copy of the will,' or (with Kennedy) 'and then the will is set out.' '*Deinde sequitur* (in testimonio eorum) *testamentum exscriptum, sequitur exemplum testamenti.*' Seager, *Classical Journ.* LX p. 267. Cf. Dem. 9 § 42 *εἶθ' ἡ αἰτία γέγραπται*.

11. *περὶ...ὑπὲρ*] These prepositions are here, as often, practically synonymous. Cf. infra § 50, Fals. Leg. § 94, p. 371, *οὐ περὶ τοῦ εἰ ποιητέον εἰρήνην... ἀλλ' ὑπὲρ τοῦ ποίαν τινά*, Or. 4 § 43, &c.

τοῦ τις ἂν εἵνεκ' ἔφευγεν κ.τ.λ.] 'What reason would any one have had for declining, &c.' '*Malim ἕνεκεν καὶ ἔφευγεν... Latine* porro,' says Dobree, who would similarly read in Or. 37 § 27, *τίνος γὰρ ἕνεκα καὶ ἔπειθον*, '*ut in tali re usitatum est dicere*' (Cobet, *Nov. Lect.* 606).

νὴ Δία] Or. 36 § 39, and Or. 54 § 34 n.

12. *εἰ...μὴ προσεμαρτύρουν*] 'Had they not deposed to the will, as well as to the challenge, I might reasonably have declined to open the document (purporting to be a copy of the will): but, as they actually deposed to both, and as the jury would have to hear the will whether I opened it or not, what was the use then of my refusing to open it?'

ἀκουσομένων, τί ἦν μοι κέρδος τὸ μὴ θέλειν[qq]; οὐδὲ
ἓν δήπου. αὐτὸ γὰρ τοὐναντίον ὦ ἄνδρες Ἀθηναῖοι,
κἂν εἰ μηδὲν προὐκαλοῦνθ' οὗτοι, λόγῳ δ' ἐχρῶντο
13 μόνον, καὶ παρεῖχέν τις αὐτοῖς γραμματεῖον ὡς διαθή-
κην, ἐμὸν ἦν τὸ προκαλεῖσθαι καὶ κελεύειν ἀνοίγειν[r]
ταύτην, ἵν' εἰ μὲν ἄλλ' ἄττα τῶν ὑπὸ τούτων μεμαρ-
τυρημένων ἦν τἀκεῖ γεγραμμένα, μάρτυρας εὐθὺς τῶν
περιεστηκότων πολλοὺς ποιησάμενος, τεκμηρίῳ τούτῳ
καὶ περὶ τῶν ἄλλων, ὡς κατασκευάζουσιν, ἐχρώμην.
εἰ δὲ ταὔτ'[s] ἐνῆν, τὸν παρασχόντ' αὐτὸν ἠξίουν μαρτυ-
ρεῖν. ἐθελήσαντος μέν γ'[t] ὑπεύθυνον ἐλάμβανον, εἰ

[qq] *Cf.* § 15. [r] ἀνοίγειν *vulg.* (Dind.). κελεύειν ἀνοίγειν Q (γρ. *in margine*). '*recte, opinor; sin, deleam* καὶ *ante* ἀνοίγειν' G. H. Schaefer. [s] ταὔτ' Reiske; ταῦτα *vulg.* (Dind.). [t] μέν γ' *codd.*; μὲν γὰρ Baiter, Dind.

κἂν εἰ] The ἂν strictly belongs to the apodosis ἐμὸν ἦν, but is here, as often, put as early as possible. Cf. Or. 36 § 42, οἶμαι...κἂν εἰ:..λέγοι, κάλλιον εἶναι, 19 § 282; 21 § 51; 24 § 109. Sometimes the construction of the apodosis shows that κἂν εἰ is regarded as much the same as καὶ εἰ, e.g. Plato Meno 72 C κἂν εἰ πολλαὶ καὶ παντοδαπαί εἰσιν, ἕν γέ τι εἶδος ταὐτὸν ἅπασαι ἔχουσι. Kühner, *Gk. Gr.* § 398, p. 210. Buttmann calls this '*ἂν consopitum*,' where its force is, as it were, dormant. It is peculiar to the later or middle Attic.

§ 13. ἵν—ἐχρώμην] § 17; Or. 36 § 47, ἵνα—ἐφαίνετο n.

ἄλλ' ἄττα τῶν κ.τ.λ.] = ἄλλ' ἄττα ἢ τά, i.e. 'had the contents of the alleged will been *different from* the terms deposed to by these witnesses.' For this rather uncommon use of ἄλλος with gen. (like ἕτερος, ἀλλότριος, διάφορος) cf. Xen. Mem. IV 4 § 25 πότερον τοὺς θεοὺς ἡγῇ τὰ δίκαια νομοθετεῖν ἢ ἄλλα τῶν δικαίων. ἀλλότριος is so used in Dem. 18 § 182, but I cannot find any similar use of ἄλλος in Demosthenes.—Dobree suggests ἄλλ' ἄττα ἀντὶ τῶν.

τεκμηρίῳ κ.τ.λ.] sc. τούτῳ ἐχρώμην τεκμηρίῳ ὡς καὶ τἄλλα κατασκευάζουσι.—In the next clause αὐτὸν ('to give evidence *himself*') is contrasted with the several witnesses, οἱ περὶ Στέφανον.

ἐθελήσαντος μὲν] i.e. εἰ μὲν ἠθέλησε, contrasted with εἰ δ' ἔφευγε. We should naturally expect ἐθελήσαντα, as the use of gen. absolute, in reference to the same person as the acc. ὑπεύθυνον, is somewhat exceptional, the rule being that the gen. absolute is generally found only when there is no other case in the sentence to which the participle might attach itself. Cf. however, Xen. Cyr. I 4 § 2 ἀσθενήσαντος αὐτοῦ (sc.

δ' ἔφευγε, πάλιν αὐτὸ τοῦθ' ἱκανὸν τεκμήριον ἦν μοι
τοῦ πεπλάσθαι τὸ πρᾶγμα. καὶ δὴ καὶ συνέβαινεν
ἐκείνως μὲν ἕν' εἶναι, πρὸς ὃν τὰ πράγματ' ἐγίγνετό
μοι, ὡς δ' οὗτοι μεμαρτυρήκασι, πρὸς πολλούς. ἔστιν
οὖν ὅστις ἂν[u] ὑμῶν ταῦθ' εἵλετο; ἐγὼ μὲν οὐδέν'
ἡγοῦμαι. οὐ τοίνυν οὐδὲ κατ' ἄλλου πιστεύειν ἐστὲ 14
δίκαιοι. καὶ γὰρ ὦ ἄνδρες Ἀθηναῖοι, ὅσοις μὲν πρόσ-
εστιν ὀργὴ τῶν πραττομένων ἢ λῆμμά τι κέρδους[v] ἢ

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[u] *ἂν om. codd.; addidit* Dobree. [v] *'fere λῆμμα idem est quod κέρδος* (52 § 26), *unde conici liceat verba τι κέρδους delenda esse'* (Huettner).

τοῦ πάππου) *οὐδέποτε ἀπέλιπε τὸν πάππον.* (Kühner, *Gk. Gr.* § 494 b, Madvig, *Gk. Synt.* § 181 R. 6.)

ὑπεύθυνον] Liable to a prosecution for false witness. Found in Dem. with *ποιεῖν*, *διδόναι*, *παρέχειν*, *καθιστάναι*, but not with *λαμβάνειν* (Huettner).

πεπλάσθαι] 18 § 10; 28 § 9; 38 § 9.

συνέβαινεν κ.τ.λ.] Kennedy translates: 'And the result was, that in that way, I had one person to deal with.' The conditional is only implied and not directly expressed, in other words *συνέβαινεν* (like *ἠξίουν*... *ἐλάμβανον*...*ἦν* above) is put without *ἄν*.—'*Malim καὶ δὴ κἂν συνέβαινεν et mox ἔστιν οὖν ὅστις ἂν ὑμῶν*,' says Dobree, comparing § 33 *bis*, and also proposing in § 34 *τίς γὰρ ἂν ἀνθρώπων*. The last two emendations are accepted in Dindorf's text.

[All the imperfects in this remarkable sentence, which does not read altogether like the style of Demosthenes, depend on the preceding *ἵνα*, 'in which case it would have happened that, &c.' The addition of *ἂν* would be quite out of place here, though it is necessary in the clause *ἔστιν οὖν ὅστις ἂν ὑμῶν*, which passes into quite a different construction. P.]

ἐκείνως] 'In the former case,' lit. 'in that other way,' under the hypothesis just mentioned (as opposed to the *fact ὡς οὗτοι μεμαρτυρήκασι*), sc. *εἰ τὸν παρασχόντ' ἠξίουν μαρτυρεῖν*, including the subsequent subdivision of that supposition into the two further hypotheses, *ἐθελήσαντος μὲν κ.τ.λ.* and *εἰ δ' ἔφευγε κ.τ.λ.*

πρὸς πολλούς] sc. *τὰ πράγματα γενέσθαι μοι.*

14. *οὐ...οὐδὲ κατ' ἄλλου πιστεύειν*] 'Well then, you cannot fairly believe it of any one *else* either.'

ὅσοις...τῶν πραττομένων] The participle is best taken not as gen. after *ὀργὴ* but after *ὅσοις*, which is *neuter*. Cf. § 15 *ὅσα... τῶν πεπραγμένων*. 'In every course of action attended by anger, or by getting of gain, or by any exasperation ('keen resentment,' 'strong provocation'), or by a spirit of jealousy, one man may act in one way, another in another, according to his individual character.'

λῆμμα] 49 § 57 *τῶν ἄλλων λημμάτων τοῦ ἀργυρίου.*

παροξυσμὸς ἢ φιλονικία[w], ταῦτα μὲν ἄλλος ἂν ἄλλως
πράξειε πρὸς τὸν αὑτοῦ τρόπον· ὅσοις δὲ τούτων μὲν
μηδέν, λογισμὸς δ' ἐφ' ἡσυχίας τοῦ συμφέροντος, τίς
οὕτως ἄφρων ὅστις ἂν τὰ συνοίσοντ' ἀφείς, ἐξ ὧν
κάκιον ἔμελλεν ἀγωνιεῖσθαι, ταῦτ' ἔπραξεν; ἃ γὰρ 1106
οὔτ' εἰκότ' οὔτ' εὔλογ' οὔτ' ἂν ἔπραξεν οὐδὲ εἷς[x], ταῦθ'
οὗτοι μεμαρτυρήκασι περὶ ἡμῶν.

[w] φιλονεικία *vulg.*

[x] οὐδὲ εἷς Bl.; οὐδεὶς *vulgo.*

παροξυσμὸς] This word, found twice in the New Testament (Hebr. x 24, Acts xv 39), is not used again by Demosthenes, nor indeed does it appear to occur elsewhere in the sense of 'exasperation' in any of the earlier Greek writers. In the Aphorisms of Hippocrates, 1243 (Liddell & Scott), it is a medical term, in the sense perpetuated in our 'paroxysm.' The *verb* however is found in Or. 21 (Meid.) § 2 ὠργίσθη καὶ παρωξύνθη, 57 (Eubul.) § 49 ἡ πόλις πᾶσα...ὀργιζομένη παρώξυντο, *ib.* § 2, Or. 47 (Euerg.) § 19; also the *adj.* in Or. 20 (Lept.) § 105 λόγοι παροξυντικοὶ πρὸς τὸ... πεῖσαι.

λογισμὸς κ.τ.λ. 'A calm calculation of one's interest.' λ. τῶν πραγμάτων (18 § 229), τῶν ἔργων (18 § 231), τοῦ κινδύνου (16 § 30).

§§ 15—19. *Again, the witnesses depose to a Challenge as well as to a Will. Now Challenges are meant to meet the case of those transactions, which it is otherwise impossible to bring before the court. In the present case, what call was there for a Challenge? The arbitration took place in Athens, and they have deposed that the original will was produced before the arbitrator. If this was true, they ought to have put the original will into the box and the producer should have proved it by evidence. In that case the jury, after weighing the credibility of the deposition and inspecting the seals of the will, would have decided accordingly; and, had I thought myself wronged by the verdict, I might have proceeded against the deponent in question. But, as it is, no single witness has undertaken the whole responsibility; no! they have cleverly divided it, by one witness (Cephisophon) deposing to having a document inscribed 'Pasion's Will'; and another (Amphias), to having produced it after being sent to do so by the former witness; but whether it was genuine or not, was 'more than he knew.'—In fact, Stephanus and his friends made the Challenge a mere mask to enable them to depose to a will, so that the jury were led to believe that the will was my father's, and I myself was debarred from being heard on my wrongs, and so that by these very means my opponents might ultimately be convicted of having given false evidence—a result which they hardly expected.*

Οὐ τοίνυν μόνον ἐξ ὧν ἐμὲ μὴ θέλειν[y] τὸ γραμμα- 15
τεῖον ἀνοίγειν μεμαρτυρήκασι, γνοίη τις ἂν αὐτοὺς ὅτι
ψεύδονται, ἀλλὰ καὶ ἐκ τοῦ πρόκλησιν ὁμοῦ διαθήκῃ
μαρτυρεῖν. οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι, ὅτι ὅσα μὴ
δυνατὸν πρὸς ὑμᾶς ἀγαγεῖν ἐστι τῶν πεπραγμένων,
τούτων προκλήσεις εὑρέθησαν. οἷον βασανίζειν οὐκ 16
ἔστιν ἐναντίον ὑμῶν· ἀνάγκη τούτου πρόκλησιν εἶναι.

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[y] *θέλειν* S (Bl.); *ἐθέλειν vulgo.*

15. *μὴ θέλειν*] *ἐθέλω* is the proper form in Attic prose, *θέλω* in Attic verse, but the latter is occasionally found in Dem. in such formulæ as *ἂν θεὸς θέλῃ.* (See Veitch *Gk. Vbs.*) It may also be used when a vowel precedes.

προκλήσεις] Harpocr. s. v. *εἰώθεσαν ὁπότε δικάζοιντό τινες, ἐξαιτεῖν ἐνίοτε θεραπαίνας ἢ θεράποντας εἰς βάσανον ἢ εἰς μαρτυρίαν τοῦ πράγματος, καὶ τοῦτο ἐκαλεῖτο προκαλεῖσθαι, τὸ δὲ γραμματεῖον τὸ περὶ τούτου γραφόμενον ὠνομάζετο πρόκλησις. παρὰ πολλοῖς δέ ἐστι ῥήτορσι. Δημοσθένης δ' ἐν τῷ κατὰ Στεφάνου καὶ περὶ ὧν πρόκλησις γίνεται δηλοῖ.* Hermann, *Public Antiquities*, § 141, 20; Meier & Schömann, p. 871 Lips.

16. *οἷον...οἷον*] 54 § 17 *οἷον ...πάλιν...πάλιν.*

βασανίζειν οὐκ ἔστιν ἐναντίον ὑμῶν] In Dobree's *Adversaria*, we have the suggestive note '*Qu. interrog. Qu. the fact.*' As a general rule doubtless this examination of slaves took place in private, before a magistrate or arbitrator or other authorized person, in the presence of a number of bystanders either concerned as witnesses or merely present out of curiosity (Or. 47 § 12); and the text as it stands would seem to imply that administration of torture in open court was not allowed.—We find Aeschines (Fals. Leg. § 126) *proposing* to 'question' certain slaves in public: *ἄγωμεν δὲ καὶ τοὺς οἰκέτας καὶ παραδιδῶμεν εἰς βάσανον...παρέσται δὲ ἤδη ὁ δῆμος καὶ βασανιεῖ ἐναντίον ὑμῶν, ἂν κελεύητε...κάλει μοι τοὺς οἰκέτας δεῦρο ἐπὶ τὸ βῆμα...* At this point (it is important to notice) follows a Challenge which Demosthenes declines. Thus we have a *proposal* only, and it may be concluded from *ἂν κελεύητε*, that even if the Challenge had been accepted, the court would have had to give a special order for such departure from ordinary usage.

Again in [Dem.] Or. 47 *κατὰ Εὐέργου ψευδομαρτυριῶν* § 17, we read: *ἔδει αὐτόν, εἴπερ ἀληθῆ ἦν ἅ φασιν αὐτὸν προκαλεῖσθαι, κληρουμένων τῶν δικαστηρίων κομίσαντα τὴν ἄνθρωπον, λαβόντα τὸν κήρυκα, κελεύειν ἐμέ, εἰ βουλοίμην, βασανίζειν, καὶ μάρτυρας τοὺς δικαστὰς εἰσιόντας ποιεῖσθαι ὡς ἕτοιμός ἐστι παραδοῦναι* (cf. ib. § 6). But it would be idle to suppose that this passage proves that the torture might take place in open court; all that is meant is that the defendant might have produced the girl, when the court was about to sit, challenged the plaintiff to 'ques-

οἷον εἴ τι πέπρακται καὶ γέγον᾽ ἔξω που τῆς χώρας·
ἀνάγκη καὶ τούτου πρόκλησιν εἶναι, πλεῖν ἢ βαδίζειν
οὗ τὸ πρᾶγμ᾽ ἐπράχθη· καὶ τῶν ἄλλων τῶν τοιούτων.
ὅπου δ᾽ αὐτὰ τὰ πράγματ᾽ ἐφ᾽ αὐτῶν ἔστιν ὑμῖν ἐμ-
φανῆ ποιῆσαι, τί ἦν ἁπλούστερον ἢ ταῦτ᾽ ἄγειν εἰς μέ-
17 *σον; Ἀθήνησι μὲν τοίνυν ὁ πατὴρ ἐτελεύτησεν οὑμός,*
ἐγίγνετο δ᾽ ἡ δίαιτ᾽ ἐν τῇ ποικίλῃ στοᾷ, μεμαρτυρή-
κασι δ᾽ οὗτοι παρέχειν τὸ γραμματεῖον Ἀμφίαν πρὸς
τὸν διαιτητήν. οὐκοῦν εἴπερ ἀληθὲς ἦν, ἐχρῆν αὐτὸ

tion' her, and called on the jurors to bear witness that he was *ready* to hand her over to be tortured in the usual manner and *not* in public court.—Cf. Meier & Schömann, p. 895 Lips.

οἷον—ἔξω τῆς χώρας] As an illustration of this form of Challenge, we find in Or. 32 the plaintiff (Zenothemis) borrowing money in Syracuse (§ 4) and the defendant challenging him at Athens to sail to Syracuse and appear before the authorities there (§ 18). Cf. *ex iure manum consertum voco* in Cicero *pro Murena* § 26 (with Mr Heitland's note).

πλεῖν ἢ βαδίζειν] Here, as often, contrasted with one another, as the ordinary words for 'going by sea or by land,' Fals. Leg. § 164 *οὔτ᾽ ἐπείγεσθαι βαδίζουσιν οὔτε πλεῖν αὐτοῖς ἐπῄει*, and § 181.

ὅπου] 'since,' or 'in a case where'; 22 § 11 *ὅπου δ᾽ αἰτεῖν οὐκ ἐᾷ, πῶς οὐ σφόδρα δοῦναί γε κωλύει;*

17. *ἐτελεύτησεν*] B.C. 370; Or. 46 § 13.

ποικίλῃ στοᾷ] 'The painted portico.' So called from its pictures, representing the legendary wars of Athens and the battle of Marathon. See Or. 59 (Neaer.) § 94 and Aeschin. Ctesiph. § 186. As is well known, it was this portico which gave the name of Stoics to the followers of Zeno of Citium. Persius III 53 *quaeque docet sapiens bracatis illita Medis Porticus*. It is placed east of the market of the Cerameicus in Curtius, *Text der sieben Karten* p. 35.

The *public* arbitrators had particular buildings assigned them according to the tribe to which they belonged: thus in Or. 47 § 12 the arbitration takes place in the Heliaea, *οἱ γὰρ τὴν Οἰνηΐδα καὶ τὴν Ἐρεχθηΐδα διαιτῶντες ἐνταῦθα κάθηνται.*

ἐχρῆν] As usual, without *ἄν*. We might have had *εἴπερ ἀληθὲς ἦν, ἐνέβαλεν ἂν τὸ γραμματεῖον*, implying *ἀλλ᾽ οὐκ ἐνέβαλεν*, whereas the sentence as it stands does not require *ἂν* because it implies *not ἀλλ᾽ οὐκ ἐχρῆν*, but *χρὴ μὲν ἐμβαλεῖν ἀλλ᾽ οὐκ ἐνέβαλεν*. So also with *ὤφελον, ἔμελλον, ἔδει, προσῆκεν*; '*sed multo latius patet haec ratio... Omnino, ubicunque non potest contrarium opponi, recte abest particula.*' Hermann *de particula ἂν* § XII. On a similar principle we have *τί ἦν ἁπλούστερον* above, which follows the analogy of *δίκαιον ἦν, εἰκὸς ἦν*, &c.

τὸ γραμματεῖον εἰς τὸν ἐχῖνον ἐμβαλεῖν καὶ τὸν παρ-
έχοντα μαρτυρεῖν, ἵν' ἐκ τῆς ἀληθείας καὶ τοῦ τὰ σημεῖ'
ἰδεῖν οἱ μὲν δικασταὶ τὸ πρᾶγμ'[z] ἔγνωσαν, ἐγὼ δ', εἴ
τις ἠδίκει μ', ἐπὶ τοῦτον ᾖα· νῦν δ' εἷς μὲν οὐδεὶς ὅλον 18
τὸ πρᾶγμ' ἀνεδέξατο, οὐδὲ μεμαρτύρηκεν ἁπλῶς, ὡς
ἄν τις τἀληθῆ μαρτυρήσειε, μέρος δ' ἕκαστος, ὡς δὴ
σοφὸς καὶ διὰ τοῦτ' οὐ δώσων δίκην, ὁ μὲν γραμματεῖον
ἔχειν ἐφ' ᾧ γεγράφθαι διαθήκη Πασίωνος, ὁ δὲ πεμ-
φθεὶς ὑπὸ τούτου παρέχειν τοῦτ', εἰ δ' ἀληθὲς ἢ ψεῦ-
1107 δος, οὐδὲν εἰδέναι. οἱδὶ δὲ τῇ προκλήσει χρησάμενοι 19
παραπετάσματι, διαθήκας ἐμαρτύρησαν, ὡς ἂν μάλισθ'

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[z] τὰ δίκαια γρ. FQ; *cf.* 25 § 4.

τὰ σημεῖα] Or. 42 §§ 2, 8. Probably the seals attached to the will (cf. Becker's *Charicles*, Sc. IX note 14), and not those on the deposition-case or ἐχῖνος (as supposed in Stark's addenda to Hermann's *Privatalt.* § 65, 9). On the ἐχῖνος cf. Or. 39 § 18 σεσημασμένων τῶν ἐχίνων, and note on Or. 54 § 27. For the opening of the seals of a will, see Ar. Vesp. 584 κλάειν ἡμεῖς μακρὰ τὴν κεφαλὴν εἰπόντες τῇ διαθήκῃ, καὶ τῇ κόγχῃ τῇ πάνυ σεμνῶς τοῖς σημείοισιν ἐπούσῃ.

ᾖα] 'perhaps old Attic, Plat. Theaet. 180, Rep. 449' Veitch, *Gk. Vbs.* s.v. εἶμι. Cf. Kühner-Blass, *Gr. Gr.*, I 2 § 292, 3. As *first* person ᾔειν is rare, but προσῄειν is not. In § 6 we have had ἀπῄειν. See Cobet, *Variae Lect.* p. 307.

18. εἷς...οὐδεὶς] 'No *single* witness has accepted the whole responsibility'; cf. § 38 διείλοντο τἀδικήματα. εἷς οὐδεὶς is a much stronger negative than οὐδείς. Or. 21 (Midias) § 12 ἓν γὰρ οὐδέν ἐστιν ἐφ' ᾧ...οὐ δίκαιος ὢν ἀπολωλέναι φανήσεται. Cf. Fals. Leg. § 201, ἓν οὐδ' ὁτιοῦν, Thuc. II. 15 § 2.

ὁ μὲν...ὁ δὲ] Cephisophon (§§ 21, 22)...Amphias (ὁ Κηφισοφῶντος κηδεστής, §§ 10, 17).—The subject of ἕκαστος (ὁ μὲν...ὁ δὲ) is μεμαρτύρηκε implied by the former part of the sentence. This is all that is meant by Dobree's punctuation '*Distingue* ὁ δὲ, πεμφθείς,' to show that πεμφθεὶς is subordinate to παρέχειν and is not to be taken with ὁ δέ. Trans. 'another, that he produced the will on being sent by him (Cephisophon).'

19. παραπετάσματι] sc. προφάσει (46 § 9 πρόφασιν...τὴν πρόκλησιν), προσχήματι (5 § 6), as a 'cloak,' or 'pretext,' lit. a 'screen' or 'curtain.' Plat. Protag. 316 E ταῖς τέχναις ταύταις παραπετάσμασιν ἐχρήσαντο, immediately after πρόσχημα ποιεῖσθαι καὶ προκαλύπτεσθαι.

ὡς ἂν μάλισθ' οἱ μὲν δικασταὶ ...ἐπίστευσαν...ἐγὼ δὲ ἀπεκλείσθην ... οὗτοι δὲ φωραθεῖεν ...] This sentence, as it stands in the MSS, can only mean 'The present witnesses (Stephanus, &c.) used the challenge as a pretext for giving evidence of a will,

οἱ μὲν[a] *δικασταὶ ταύτην τὴν διαθήκην ἐπίστευσαν τοῦ πατρὸς εἶναι, ἐγὼ δ' ἀπεκλείσθην τοῦ λόγου τυχεῖν ὑπὲρ ὧν ἀδικοῦμαι, οὗτοι δὲ φωραθεῖεν τὰ ψευδῆ μεμαρτυρηκότες. καίτοι τό γ' ἐναντίον ᾤοντο τούτου. ἵνα δ' εἰδῆθ' ὅτι ταῦτ'*[b] *ἀληθῆ λέγω, λαβὲ τὴν τοῦ* Κηφισοφῶντος *μαρτυρίαν.*

in the very way in which the court *would have* believed that the will was my father's, and I *should have been* debarred from getting a hearing, and in which my opponents *would* now *be* palpably convicted of giving false evidence.' This makes nonsense, as the jury in the former trial *did* believe the witnesses, and Apollodorus *was* debarred from speaking. *ἂν* is quite out of place with *ἐπίστευσαν* and *ἀπεκλείσθην*, but not so with *φωραθεῖεν* (which cannot here be taken as a simple optative expressing a wish). It thus appears that we should (with G. H. Schaefer) remove *ἂν* from the aorist indicative and place it with the aor. optative, and read as follows: *ὡς* (or *ὥσθ'*) *οἱ δικασταὶ...ἐπίστευσαν, ἐγὼ δὲ ἀπεκλείσθην...οὗτοι δ' ἂν μάλιστα φωραθεῖεν*. The sense thus gained is fairly satisfactory: 'the witnesses combined the attestation of a challenge with the attestation of a will (made the former a pretext for the latter). The immediate result was that the jury in the previous trial believed the will was really my father's and therefore decided against me without giving me a hearing on my present wrongs. The ultimate result was that by that very means my opponents would be clearly convicted of having given false evidence.'

Hermann attempts to explain the passage by the following translation:

'*Illi vero, provocationis praetextu usi, de testamento testati sunt eo modo, quo facillime judices hoc patris testamentum esse crederent, ego autem ab oranda causa mea excludi debebam*[?], *ipsi vero—falsa testati esse deprehenderentur; atqui contrarium sperabant.* Illa enim *οὗτοι δέ* (hic voce paullum subsistit orator) *φωραθεῖεν τὰ ψευδῆ μεμαρτυρηκότες*, ironice dicta esse patet' (*Opuscula* IV 27, de particula *ἂν* I 7).

Dobree says: 'Sensus est: ita rem administrarunt, ut tunc quidem judices deciperent; postea autem hoc palam fieret, quamvis id non praeviderent.—Qu. de *modorum* permutatione. Similis locus F. Leg. 424. 16' *τοσοῦτ' ἀπέχουσι τοῦ τοιοῦτόν τι ποιεῖν, ὥστε θαυμάζουσι καὶ ζηλοῦσι καὶ βούλοιντ' ἂν αὐτὸς ἕκαστος τοιοῦτος εἶναι.*

[I suggest *ὡς ἂν εἰ μάλισθ' οἱ δικασταί*, and *perhaps* *οὗτοί γε* infra (though *οὗτοι δὲ* might mean '*yet* these' &c.). 'They gave their evidence so, that if the dicasts were ever so much persuaded, and I was stopped from further proceedings then, yet they will be detected in

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[a] *addidit* Bl. *coll.* 46 § 9.

[b] *ὅτι ταῦτ'* Bl.; *ταῦτα ὅτι* (*syllabis brevibus*) *codices.*

ΜΑΡΤΥΡΙΑ.

[c]Κηφισοφῶν Κεφαλίωνος[d] Ἀφιδναῖος μαρτυρεῖ καταλειφθῆναι αὑτῷ ὑπὸ τοῦ πατρὸς γραμματεῖον, ἐφ' ᾧ ἐπιγεγράφθαι διαθήκη Πασίωνος.[c]

[c] *testimonium om.* S; *uncis incl.* Z, Dind.

[d] Κεφαλίωνος Bl.; Κεφάλωνος *codices* (Dind.).

having lied.' *ὡς ἂν φωραθεῖεν* is a virtual synonym of *ὥστε φωραθῆναι*. Cf. Plat. Phaedr. p. 230 B *καὶ ὡς ἀκμὴν ἔχει τῆς ἄνθης, ὡς ἂν εὐωδέστατον παρέχοι τὸν τόπον*, 'see how this willow is in full blossom, so as to fill the place with fragrance!' Symp. p. 187 D *τοῖς μὲν κοσμίοις τῶν ἀνθρώπων, καὶ ὡς ἂν κοσμιώτεροι γίγνοιντο οἱ μήπω ὄντες, δεῖ χαρίζεσθαι*. For the use of *δὲ* in apodosis, cf. Or. 21 (Mid.) p. 547 § 100 *εἰ δέ τις πένης μηδὲν ἠδικηκὼς ταῖς ἐσχάταις συμφοραῖς ἀδίκως ὑπὸ τούτου περιπέπτωκε, τούτῳ δ' οὐδὲ συνοργισθήσεσθε*; P.]

'*ἂν* et ad *ἐπίστευσαν* et ad *φωραθεῖεν* pertinet, verbis *ἐγὼ—ἀδικοῦμαι* interpositis: *ea ratione testati sunt, qua maxime iudices crederent,—ego autem impeditus sum, ne causam meam dicerem,—isti autem falsi testimonii coarguantur*' (Huettner).

§§ 19—23. *To prove this, take the evidence of Cephisophon. He deposes to a document having been left him by my father, inscribed 'Pasion's Will'; thinking that to depose to this only was a mere trifle, and that he could not safely go so far as to add (what in itself would have been a simple matter) 'that this was the document produced by the deponent.'—Now, had Phormion's name appeared outside, the deponent might reasonably have kept the document for Phormion; further, had it really been endorsed 'Pasion's Will,' it would have belonged to me by inheritance like the rest of my father's property, and I should of course have appropriated it, feeling that, with a lawsuit before me, the will, if its terms were those alleged, would be rather detrimental to my interests. The fact that, in spite of the alleged endorsement, it has been produced to Phormion, not to myself, and been let alone by me, proves the forgery of the will and the falsehood of the deposition of Cephisophon. However, I dismiss him for the present, especially as he has given no evidence on the contents of the will, which by the way is a strong proof of the falsehood of the deposition of Stephanus and his friends. Cephisophon, the very person who deposes to having the document, did not dare to depose to its identity with that produced by Phormion; and yet the present witnesses (Stephanus and his friends) have declared that it is a copy of the other, though they cannot claim to have been present when the will was drawn up, never saw it opened before the arbitrator, and indeed have deposed that I refused to open it. If so, have they not clearly charged themselves with having given false evidence?*

Μαρτυρία] The wording of this deposition is identical with that of the speech itself (§§ 18 and 20), with the exception of

20 Οὐκοῦν ἦν ἁπλοῦν ὦ ἄνδρες δικασταί, τὸν ταῦτα
μαρτυροῦντα προσμαρτυρῆσαι "εἶναι δὲ τὸ γραμματεῖον,
"ὃ αὐτὸς παρέχει, τοῦτο," καὶ τὸ γραμματεῖον
ἐμβαλεῖν. ἀλλὰ τοῦτο μὲν οἶμαι τὸ ψεῦδος ἡγεῖτ' ὀργῆς
ἄξιον, καὶ δίκην ἂν ὑμᾶς παρ' αὐτοῦ λαβεῖν, γραμματεῖον
δ' αὐτῷ καταλειφθῆναι μαρτυρῆσαι φαῦλον
καὶ οὐδέν. ἔστι δὲ τοῦτ' αὐτὸ τὸ δηλοῦν καὶ κατηγοροῦν
21 ὅτι πᾶν τὸ πρᾶγμα κατεσκευάκασιν. εἰ μὲν γὰρ
ἐπῆν ἐπὶ τῆς διαθήκης "Πασίωνος καὶ Φορμίωνος" ἢ
"πρὸς Φορμίωνα" ἢ τοιοῦτό τι, εἰκότως ἂν αὐτὴν ἐτήρει
τούτῳ· εἰ δ', ὥσπερ μεμαρτύρηκεν, ἐπῆν "διαθήκη
"Πασίωνος," πῶς οὐκ ἂν ἀνῃρήμην αὐτὴν ἐγώ, συνει-

the clause ὑπὸ τοῦ πατρὸς (naturally suggested by καταλειφθῆναι), and the description of the witness as Κεφάλωνος (or Κεφαλίωνος) Ἀφιδναῖος. Κεφάλων is a parallel form of Κεφαλίων and is found elsewhere (Plut. Arat. 52). One Κηφισοφῶν Ἀφιδναῖος is mentioned in inscriptions as trierarch and commander of the fleet, and it has been proposed to identify him with the witness in this case, though the name of the trierarch's father is not given (Boeckh, *Seewesen* p. 442). The composer of the deposition may have been led to assign Cephisophon to Aphidna by a passage in Or. 59 κατὰ Νεαίρας §§ 9—10, where a person of that name bribes one Stephanus of Eroeadae to charge Apollodorus with causing the death of a woman at Aphidna. (A. Westermann *u.s.* pp. 108—9, cf. § 8 *supra.*) The authenticity of the document is, however, confirmed by the fact that an inscription of the year 343 B.C. mentions Κηφισοφῶν Κεφαλίωνος Ἀφιδναῖος (*C. I. A.* II 1, 114 c 6 quoted by Kirchner p. 28).

20. ἐμβαλεῖν] sc. εἰς τὸν ἐχῖνον, § 17.—ὀργή, the indignation of the court.—ἂν λαβεῖν depends, like the previous clause, on ἡγεῖτο.

γραμματεῖον δὲ] 'Whereas to give evidence of a document having been bequeathed to him was a trifle of no importance.' Kennedy.

"Πασίωνος καὶ Φορμίωνος."] 'At ineptus Pasio fuisset, si hoc inscripsisset; de utrisque enim, et Phormione et filiis, in eo constituerat' (Lortzing *Apoll.* p. 78).—ἐτήρει τούτῳ sc. Φορμίωνι. 'If the inscription had been, *This belongs to Pasio, and to Phormion*, or *for Phormion*, or anything of that sort, he would reasonably have kept it for *him.*'

21. πῶς οὐκ ἂν ἀνῃρήμην...] 'I should of course have appropriated it.' The plaintiff actually says that *if* the terms of the will were such as alleged and if it had been really inscribed 'Pasion's Will' (διαθήκη is emphatic: 'had the endorse-

δὼς μὲν ἐμαυτῷ μέλλοντι δικάζεσθαι, συνειδὼς δ' ὑπε-
ναντίαν οὖσαν, εἴπερ ἦν τοιαύτη, τοῖς ἐμαυτῷ συμ-
φέρουσι, κληρονόμος δ' ὢν καὶ ταύτης, εἴπερ ἦν τοὐμοῦ
πατρός, καὶ τῶν ἄλλων τῶν[e] πατρῴων ὁμοίως; οὐκοῦν 22
τῷ παρέχεσθαι μὲν Φορμίωνι, γεγράφθαι δὲ Πασίω-
1108 νος, εἰᾶσθαι δ' ὑφ' ἡμῶν, ἐξελέγχεται κατεσκευασμένη
μὲν ἡ διαθήκη, ψευδὴς δ' ἡ τοῦ Κηφισοφῶντος μαρ-
τυρία. ἀλλ' ἐῶ Κηφισοφῶντα· οὔτε γὰρ νῦν μοι πρὸς
ἐκεῖνόν ἐστιν οὔτ' ἐμαρτύρησεν ἐκεῖνος περὶ τῶν ἐν
ταῖς διαθήκαις ἐνόντων οὐδέν. καίτοι καὶ τοῦτο σκο- 23
πεῖτε, ὅσον ἐστὶ τεκμήριον ὦ ἄνδρες Ἀθηναῖοι τοῦ
τούτους τὰ ψευδῆ μεμαρτυρηκέναι. εἰ γὰρ ὁ μὲν αὐτὸς
ἔχειν τὸ γραμματεῖον μαρτυρῶν οὐκ ἐτόλμησ' ἀντί-
γραφ' εἶναι ἃ παρείχετο Φορμίων τῶν παρ' αὐτῷ

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[e] *add.* Bl. *coll.* § 27; 19 § 78; 21 § 10; 24 § 153; 37 § 49; 52 § 13.

ment been, not merely, 'This is Pasion's,' but 'This is Pasion's *will*,'&c.), then he would certainly have claimed it as heir to his father's property and, finding it detrimental to his own interests, would have kept it close.' The effrontery of this statement is sufficiently startling.

As regards the phrase *διαθήκην ἀναιρεῖσθαι*, it may be noticed that in Isaeus Or. 6 (Philoct.) §§ 30—33, we have *πείθουσι τὸν Εὐκτήμονα τὴν διαθήκην ἀνελεῖν ὡς οὐ χρησίμην οὖσαν τοῖς παισί·* followed by *ὁ Εὐκτήμων ἔλεγεν ὅτι βούλοιτ' ἀνελέσθαι τὴν διαθήκην* and *ποιησάμενος πολλοὺς μάρτυρας ὡς οὐκέτι αὐτῷ κέοιτο ἡ διαθήκη, ᾤχετο ἀπιών*. Cf. also Isaeus Or. 1 (Cleonym.) § 14, *ἀσθενῶν... ἐβουλήθη ταύτας τὰς διαθήκας ἀνελεῖν*, where Schömann remarks '*ἀναιρεῖν* est *λύειν tollere, rescindere: ἀναιρεῖσθαι* autem, de contractuum testamentorumque tabulis, proprie est *repetere* ab eo, apud quem depositae fuerunt, quod fit a sublaturo.' In these passages, however, the phrase is used of a testator revoking his own will; here of an heir claiming his father's will, with a view to suppressing it. See note on Or. 34 § 31, and cf. 48 § 46.

22. *τῷ παρέχεσθαι Φορμίωνι*] 'By its being produced, not by, but *to* Phormion.'—*εἰᾶσθαι δ'* 'and *yet* let alone (not made away with) by myself.' (See last note.) The pf. pass. *εἰᾶσθαι* is apparently never used elsewhere. Or. 8 § 59 *ἐᾶσθαι*, 10 § 8 *ἐαθέντα*, Isocr. 4 § 97 *εἰάθησαν*.

23. *αὐτὸς ἔχειν*] 'That he had the document in his own keeping.'

παρείχετο] *παρέχεσθαι dicitur, qui sua causa, παρέχειν, qui alterius causa facit* (Huettner).

μαρτυρῆσαι, οὗτοι δὲ οὔτ' ἐξ ἀρχῆς ὡς παρῆσαν ἔχοιεν ἂν εἰπεῖν, οὔτ' ἀνοιχθὲν εἶδον πρὸς τῷ διαιτητῇ τὸ γραμματεῖον, ἀλλὰ καὶ μεμαρτυρήκασιν αὐτοὶ μὴ θέλειν ἔμ' ἀνοίγειν, ταῦθ' ὡς ἀντίγραφ' ἐστὶν ἐκείνων μεμαρτυρηκότες, τί ἄλλ' ἢ σφῶν αὐτῶν κατήγοροι γεγόνασιν ὅτι ψεύδονται;

24 *Ἔτι τοίνυν ὦ ἄνδρες Ἀθηναῖοι πῶς*[f] *γέγραπταί τις ἂν ἐξετάσας τὴν μαρτυρίαν, γνοίη παντελῶς τοῦτο μεμηχανημένους αὐτούς, ὅπως καὶ*[g] *δικαίως καὶ ἀδίκως δόξει ταῦθ' ὁ πατὴρ οὑμὸς διαθέσθαι. λαβὲ δ' αὐτὴν τὴν μαρτυρίαν, καὶ λέγ' ἐπισχὼν οὗ ἂν σε κελεύω, ἵν' ἐξ αὐτῆς δεικνύω.*

ΜΑΡΤΥΡΙΑΙ.

Μαρτυροῦσι παρεῖναι πρὸς τῷ διαιτητῇ Τεισίᾳ, ὅτε προὐκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μή φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος—

25 *Ἐπίσχες. ἐνθυμεῖσθ' ὅτι "τῶν διαθηκῶν" γέγραπται "τῶν Πασίωνος." καίτοι χρῆν τοὺς βουλομένους τἀληθῆ μαρτυρεῖν, εἰ τὰ μάλιστ' ἐγίγνεθ' ἡ πρόκλη-*

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[f] *ὡς vulg.; πῶς propter hiatum* Bl. [g] *add.* Bl. *coll.* 44 § 35; *Andoc.* 1 § 135; *Arist. Plut.* 233, *Ach.* 373, *Eq.* 256.

ἐξ ἀρχῆς] Emphatic position, as in 9 § 25 'Were present *in the first instance*,' as witnesses when Pasion made his will (cf. Meier & Schömann, p. 878 Lips.). But it may be remarked that, even supposing they were so present, it does not follow that they would know the *contents* of the document. (See note on Or. 46 § 2 and Becker's *Charicles*, Sc. IX, note 18.)

§§ 24—26. *Let us now examine the terms of the deposition, and we shall see that its object is to make it appear by any means, fair or foul, that my father made this will. It speaks of 'the will of Pasion'; whereas it ought to have run 'the will which Phormion* asserts *to have been left by Pasion'; and you are aware that there is a vast difference between a thing being really true and Phormion's saying so.*

24. πῶς γέγραπται κ.τ.λ.] i.e. εἴ τις ἐξετάσειε πῶς γέγραπται ἡ μαρτυρία, γνοίη κ.τ.λ. For πῶς after ἐξετάζειν, cf. 23 § 196.

δικαίως καὶ ἀδίκως δόξει] 'That rightly or wrongly it may appear that my father made this will.' A singular expression, the adverbs belonging to δόξει and not to διαθέσθαι.

25. εἰ τὰ μάλιστ'] 'If it

σις, ὡς οὐκ ἐγίγνετο, ἐκείνως μαρτυρεῖν. λέγε τὴν μαρτυρίαν ἀπ' ἀρχῆς πάλιν.

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ΜΑΡΤΥΡΙΑ.

Μαρτυροῦσι παρεῖναι πρὸς τῷ διαιτητῇ Τεισίᾳ—

Μαρτυροῦμεν· παρῆμεν γὰρ δή. λέγε.

ὅτε προὐκαλεῖτο Φορμίων Ἀπολλόδωρον—

Καὶ τοῦτ', εἴπερ προὐκαλεῖτ', ὀρθῶς ἂν ἐμαρτύρουν.

εἰ μή φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος—

26 Ἔχ' αὐτοῦ. οὐδ' ἂν εἷς ἔτι δήπου τοῦτ' ἐμαρτύρησεν, εἰ μή τις καὶ παρῆν διατιθεμένῳ τῷ πατρὶ τῷ ἐμῷ· ἀλλ' εὐθὺς ἂν εἶπε "τί δ' ἡμεῖς ἴσμεν, εἴ τινές εἰσι διαθῆκαι Πασίωνος;" καὶ γράφειν ἂν αὐτὸν ἠξίωσεν, ὥσπερ[gg] ἐν ἀρχῇ τῆς προκλήσεως[h] "εἰ μὴ φημ' ἐγὼ ἀντίγραφα εἶναι τῶν διαθηκῶν," οὕτως "ὧν φησι Φορμίων Πασίωνα καταλιπεῖν," οὐ "τῶν Πασίωνος." τοῦτο μὲν γὰρ ἦν εἶναι διαθήκας μαρτυρεῖν ὅπερ ἦν τούτοις βούλημα, ἐκεῖνο δὲ φάσκειν Φορμίωνα· πλεῖστον δὲ δήπου κεχώρισται τό τ' εἶναι καὶ τὸ τοῦτον φάσκειν.

27 Ἵνα τοίνυν εἰδῆθ' ὑπὲρ ἡλίκων καὶ ὅσων ἦν τὸ

[gg] *aut* ὥσπερ *fortasse delendum, aut postea* οὕτως *cum Blassio inserendum.*

[h] οὕτως γρ Q (*adscripto* οὕτως ὡς *pro* ὧν).

were *ever so true* that the challenge took place, which I utterly deny.' Cf. 16 § 27.—ἐκείνως, 'in a form which I am about to show,' viz. in § 26 τῶν διαθηκῶν (*not* τῶν Πασίωνος) but ὧν φησι Φορμίων Πασίωνα καταλιπεῖν. Cf. 46 § 5.

26. εἴ τινές εἰσι] 'if there *is* any will of Pasion's at all.'

φάσκειν] (sc. εἶναι διαθήκας.) Here, as often, used with the collateral notion of saying what is untrue. Thus both φημὶ and φάσκω are used in Soph. El. 319 of promising without performing: φησίν γε φάσκων δ' οὐδὲν ὧν λέγει ποιεῖ. [For the whole sentence, cf. Eur. Alc. 528, χωρὶς τό τ' εἶναι καὶ τὸ μὴ νομίζεται.]

§§ 27, 28. *An examination of the terms of the 'Will' proves that Phormion had important motives for forging it, viz.* (1) *to escape the penalty for seducing one who shall be nameless,* (2) *to secure all my father's money*

κατασκεύασμα τὸ τῆς διαθήκης, μίκρ' ἀκούσατέ μου. ἦν γὰρ ὦ ἄνδρες Ἀθηναῖοι τοῦτο πρῶτον μὲν ὑπὲρ τοῦ μὴ δοῦναι δίκην ὧν διεφθάρκει, ἣν ἐμοὶ μὲν οὐ καλὸν λέγειν, ὑμεῖς δ' ἴστε, κἂν ἐγὼ μὴ λέγω, ἔπειθ' ὑπὲρ τοῦ κατασχεῖν ὅσ' ἦν τῷ ἡμετέρῳ πατρὶ χρήματα παρὰ τῇ μητρί, πρὸς δὲ τούτοις ὑπὲρ τοῦ καὶ τῶν ἄλλων τῶν ἡμετέρων ἁπάντων κυρίῳ[i] γενέσθαι. ὅτι δ' οὕτω ταῦτ' ἔχει, τῆς διαθήκης αὐτῆς ἀκούσαντες γνώσεσθε· φανήσεται γὰρ οὐ πατρὸς ὡς ὑπὲρ[j] υἱέων γράφοντος ἐοικυῖα [διαθήκῃ][k], ἀλλὰ δούλου λελυμασ-

that was in my mother's hands; and (3) *to obtain control over all the rest of the family property.*

27. κατασκεύασμα] The 'fabrication,' 'forgery,' of the will. Cf. 21 § 123; 23 § 13; 24 § 16 (κατασκευασμὸς ὑπὲρ τοῦ κ.τ.λ.), and κατασκευάζειν in §§ 13 and 20.

ὧν διεφθάρκει, ἣν ...] 'To escape the penalty of having corrupted her whose name I cannot here mention without impropriety, but whom you yourselves know without my naming her.' (For this delicacy of allusion, cf. note on § 3.)—ων διεφθάρκει ἣν is equivalent to τῆς διαφθορᾶς τῆς γυναικὸς ἣν (or τοῦ διεφθαρκέναι ταύτην ἣν). The substantive is here 'thrown into' the verb as in Fals. Leg. § 238 p. 415 ἐν αὐτοῖς οἷς ἐτιμᾶσθε, 'in the very honours you enjoyed,' where Shilleto quotes de Corona § 312 ἐφ' οἷς ἐλυμήνω and a striking instance from Plato, Phaedo p. 94 c. We may add Midias § 189 p. 576 ἐφ' οἷς ἐλειτούργουν ὑβρίζειν, and Ar. Ach. 677 οὐ γὰρ ἀξίως ἐκείνων ὧν ἐναυμαχήσαμεν γηροβοσκούμεσθ' ὑφ' ὑμῶν. Cf. inf. § 68 and Or. 16 § 13; 19 § 77; 21 §§ 25, 128; 23 § 120; 55 § 32. In 29 § 51, τἀντίγραφα, ὡς σύ με προὐκαλέσω, must be corrected into τἀντίγραφα ὧν κ.τ.λ., as has independently occurred to another scholar.

ὑπὲρ τοῦ κατασχεῖν] 'for the purpose of securing.' So inf. § 47 ὅπως τὴν ἀφορμὴν τῆς τραπέζης κατάσχοι.

κυρίῳ γενέσθαι] The *dative* is used as though the sentence had begun with ἡ διαθήκη κατεσκεύαστο Φορμίωνι instead of with its equivalent in sense ἣν τὸ κατασκεύασμα τὸ τῆς διαθήκης. Cf. 20 (Lept.) § 107 ἐκεῖ μὲν γάρ ἐστι τῆς ἀρετῆς ἆθλον τῆς πολιτείας κυρίῳ γενέσθαι. The regular construction would of course require κύριον.

λελυμασμένου] Also a *de-*

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[i] κύριον Lambinus (G. H. Schaefer).

[j] ὡς ὑπὲρ *H. Wolf* (Bl.). ὥσπερ Z *cum libris.* περὶ G. H. Schaefer. ὑπὲρ (*tribus brevibus coniunctis*) Bekk. Dind.

[k] *propter syllabas breves secl.* Bl., '*quod cum proximis* ἀλλὰ δούλου κτὲ. *non convenit*' (Huettner).

μένου τὰ τῶν δεσποτῶν, ὅπως μὴ δώσει δίκην σκο-
1110 ποῦντος. λέγε δ' αὐτοῖς τὴν διαθήκην αὐτήν, ἣν οὗτοι 28
μετὰ[1] τῆς προκλήσεως μεμαρτυρήκασιν· ὑμεῖς δ' ἐνθυμεῖσθ' ἃ λέγω.

ΔΙΑΘΗΚΗ.

[m]Τάδε διέθετο Πασίων Ἀχαρνεύς· δίδωμι τὴν ἐμαυτοῦ γυναῖκα Ἀρχίππην Φορμίωνι, καὶ προῖκα ἐπιδίδωμι Ἀρχίππῃ τάλαντον μὲν τὸ[n] ἐκ Πεπαρήθου, τάλαντον δὲ τὸ[n] αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία[o] καὶ τἄλλ' ὅσα ἐστὶν αὐτῇ ἔνδον, ἅπαντα ταῦτα Ἀρχίππῃ δίδωμι[m].

Ἠκούσατ' ὦ ἄνδρες Ἀθηναῖοι τὸ πλῆθος τῆς προικός, τάλαντον ἐν Πεπαρήθου, τάλαντον αὐτόθεν, συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία, καὶ τἄλλα, φησίν, ὅσ' ἐστὶν αὐτῇ, δίδωμι, τούτῳ τῷ γράμματι καὶ τοῦ ζητῆσαί τι τῶν καταλειφθέντων ἀποκλείων ἡμᾶς.

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[1] Reiske. *πρὸ libri.* διὰ Dobree, *coll.* § 31.
[m–m] *om.* S; *uncis incl.* Z, Dind. [n] '*Malim* τῶν......τῶν.' Dobree. [o] Q (Bl.); τὰ χρυσία *vulgo* (Dind.).

ponent perfect in Or. 19 § 105 and Or. 21 § 173 (λελύμανται). The inf. is found as pass. in Or. 20 § 142.—The sense is:—'a slave who is thinking how to escape punishment for having wronged, *dishonoured*, his master's household, damaged his master's property.' τὰ τῶν δεσποτῶν refers to his master's wife, but is expressed purposely in a general way. Cf. 9 § 31 δοῦλος ὑποβολιμαῖος τὰ μὴ προσήκοντ' ἀπώλλυε καὶ ἐλυμαίνετο.

28. διαθήκην μετὰ τῆς προκλήσεως] § 12 προσεμαρτύρουν τῇ προκλήσει τὴν διαθήκην and § 15 πρόκλησιν ὁμοῦ διαθήκῃ μαρτυρεῖν.

τάδε διέθετο] The usual formula. Thus, Plato's will began: τάδε κατέλιπε Πλάτων καὶ διέθετο, and Aristotle's: τάδε διέθετο Ἀριστοτέλης (Diog. Laert. III 41 and V 11).

τάλαντον κ.τ.λ.] Sums in gross, charged on land, are meant (as Pabst and Kennedy understand it); *not* annual rents (as G. H. Schaefer supposes).—On συνοικίαν see notes on Or. 36 §§ 6 and 34.

Πεπαρήθου] A small island, N.W. of Euboea. As it was an Athenian colony, Athenians could hold property there (Dareste). Its wine is mentioned in 35 § 35.

καὶ τοῦ ζητῆσαι...ἀποκλείων] See on Or. 40 § 15 ἐάν τι οὗτοι τῶν πατρῴων ἐπιζητῶσι.

29 Φέρε δὴ δείξω τὴν μίσθωσιν ὑμῖν, καθ' ἣν ἐμεμί-
σθωτο τὴν τράπεζαν παρὰ τοῦ πατρὸς οὗτος. καὶ γὰρ
ἐκ ταύτης, καίπερ ἐσκευωρημένης, ὄψεσθ' ὅτι πλάσμ'
ὅλον ἐστὶν ἡ διαθήκη. δείξω δ' ἣν οὗτος παρέσχετο
μίσθωσιν, οὐκ ἄλλην τινά, ἐν ᾗ προσγέγραπται ἕνδεκα
τάλαντα ὁ πατὴρ ὀφείλων εἰς τὰς παρακαταθήκας
30 τούτῳ. ἔστι δ' οἶμαι ταῦτα τοιαῦτα. τῶν μὲν οἴκοι

§§ 29—36. *Again, the 'lease' upon which Phormion took the bank from my father, though itself a fabrication, will prove the 'Will' an absolute forgery.*

It concludes with a clause stating that my father owes eleven talents to the bank. This was added in order that whatever sums were traced to Phormion might be made out to have been 'paid' in discharge of this debt, and not embezzled.—(You imagine perhaps that, as Phormion speaks bad Greek, he is merely a foreigner and a fool. To be sure, he is anything but a good Greek in hating those he ought to honour, but in villany and knavery he is far from a fool.)

The terms of the 'lease' shall now be read and examined.

(1) *No one would have paid so large a rent, as that alleged, for the banking business.*

(2) *No one would have committed the rest of his property to a man under whose management the Bank got into debt.*

(3) *The stringency of the provision preventing Phormion from doing business as a banker on his own account is inconsistent with the singularly generous terms of the will and proves the latter to be a forgery.*

29. φέρε δὴ...δείξω...δείξω] 30 § 25 φέρε δὴ...ἐπιδείξω...μάρτυρας δὲ τῶν μὲν ὑμῖν παρέξομαι, τῶν δ' ἐπιδείξω μεγάλα τεκμήρια. φέρε δὴ may be followed either by the Aor. Subj. or by the Fut. Ind. δείξω here, and in 20 § 26, is apparently Future; ἐπιδείξω in 52 § 20, and ὑπομνήσω in 22 § 60, are ambiguous; εἴπω (19 §§ 169, 234), ἀναγνῶ (18 § 267), παράσχωμαι (59, §§ 55, 79) and ἐξετάσωμεν (20 § 62) are Aorists Subjunctive. On the other hand ἀναγνώσομαι (Andoc. 1 § 47) is clearly Future (Huettner).

τὴν μίσθωσιν κ.τ.λ.] See Or. 36 §§ 4—6.—καὶ γὰρ ἐκ ταύτης, 'for from this *too*,' &c., 18 § 25; 21 § 10; 37 § 35; 54 §§ 24, 26. [The clause καίπερ ἐσκευωρημένης reads unlike the style of Demosthenes. P.]

πλάσμα] Cf. πέπλακε in line 10 of *Argument*, and Or. 36 § 33. Hesychius has πλάσμα· σχηματισμός ('pretence'). ψεῦσμα. ἢ κτίσμα.

ἕνδεκα τάλ.] The origin of this 'debt' is carefully explained in Or. 36 §§ 4—5 (see note on προσώφειλε p. 7), and in the present speech the plaintiff says nothing that materially shakes that explanation. [The construction is, ὀφείλων τούτῳ εἰς τὰς π., 'owing Phormion eleven talents on the deposits,' or 'for the deposits' which he had put out to interest. Kennedy translates, 'upon the deposits to Phormion.' See § 31 fin. P.]

χρημάτων ὡς ἐπὶ τῇ μητρὶ δοθέντων διὰ τῆς δια-
θήκης αὐτὸν ἐποίησε κύριον, ὥσπερ ἀκηκόατ' ἄρτι,
τῶν δ' ἐπὶ τῆς τραπέζης ὄντων, ἃ πάντες ᾔδεσαν καὶ
λαθεῖν οὐκ ἦν, διὰ τοῦ προσοφείλοντ' ἀποφῆναι τὸν
πατέρ' ἡμῶν, ἵν', ὅσ' ἐξελέγχοιτο ἔχων, κεκομίσθαι
φαίη. ὑμεῖς δ' ἴσως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει
1111 τῇ φωνῇ, βάρβαρον καὶ εὐκαταφρόνητον εἶναι. ἔστι

30. *ὡς ἐπὶ τῇ μητρὶ δοθέντων*] 'As my mother's dowry.' Or. 40, *περὶ προικὸς*, § 6 *ἐκδόντος αὐτὴν ...καὶ προῖκα τάλαντον ἐπιδόντος*, and 59 § 50 *προῖκα ἐπ' αὐτῇ δίδωσι τριάκοντα μνᾶς.*

κύριον] 27 § 55 *καὶ αὐτῆς* (the mother of Dem.) *καὶ τῶν χρημάτων κύριον ποιεῖν.*

πάντες ᾔδεσαν κ.τ.λ.] This must be taken as a rhetorical exaggeration. All that the speaker probably means is that as Phormion was only the lessee, not the owner of the bank, he could be called upon by Apollodorus, the lessor after Pasion's death, to give an account of all the moneys held by the bank. As a contrast we have in § 66 *ἐργασίας ἀφανεῖς διὰ τῆς τραπέζης ποιῆται.*

κεκομίσθαι] In middle sense. Or. 41 § 11 *οὐκ ἀνενηνόχασι κεκομισμένοι (τὴν φιάλην).* Or. 56 (Dionysod.) § 3 *δέον δ' αὐτὸν ἐν τῇ πέρυσιν ὥρᾳ κεκομίσθαι τὰ χρήματα.* Trans. 'that whatever sums he might be proved to possess, he might pretend he had recovered in the way of debts.'

σολοικίζει τῇ φωνῇ, βάρβαρον] (See note on Or. 36 § 1 *τὴν ἀπειρίαν τοῦ λέγειν.*) Hdt. IV 117 *φωνῇ δὲ οἱ Σαυρομάται νομίζουσι Σκυθικῇ, σολοικίζοντες αὐτῇ.* Aeschin. 3 § 172 *βάρβαρος ἑλληνίζων τῇ φωνῇ.* *σόλοικος* is a word of narrower meaning than *βάρβαρος* and is applied mainly to faults of pronunciation or mistakes in Grammar, especially Syntax, due to foreign extraction. The word *βάρβαρος* originally referred to language (as an onomatopœetic word connected with the Sanskrit *varvara*, 'a jabberer') and was used to describe the incoherent jargon (as the Greeks considered it) of all languages but their own (Aesch. Ag. 1050). But it gradually attained a wider signification and embraced all that was non-Hellenic in the customs, the politics, the laws, and the moral and intellectual characteristics of foreign nations. (Cf. Isocr. Paneg. § 3 n.)

Hesychius (possibly with the present passage in view) has the gloss *σολοικίζει· βαρβαρίζει*, and Aristotle (*περὶ σοφιστικῶν ἐλέγχων* § 3) explains *σολοικίζειν* by *τῇ λέξει βαρβαρίζειν* and (in § 14) illustrates it by instances from the rules of *gender*. The distinction drawn between *βαρβαρισμὸς* and *σολοικισμὸς* by Zeno and the Stoics, and accepted by the writers on Rhetoric, is perhaps best expressed by Quintilian: 'vitium quod fit *in singulis verbis*, sit barbarismus ...cetera vitia omnia *ex pluribus vocibus* sunt, quorum est *soloecismus*' (I 5, 6 and 34).

βάρβαρον καὶ εὐκαταφρόνητον] Ar. Nubes 492 *ἀμαθὴς...καὶ βάρβαρος.*

δὲ βάρβαρος οὗτος τῷ μισεῖν οὓς αὐτῷ προσῆκε
τιμᾶν· τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματ'
31 οὐδενὸς λείπεται. λαβὲ δὴ τὴν μίσθωσιν καὶ λέγε,
ἣν τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνεβάλοντο.

ΜΙΣΘΩΣΙΣ ΤΡΑΠΕΖΗΣ[p].

[q]Κατὰ τάδε ἐμίσθωσε Πασίων τὴν τράπεζαν Φορμίωνι· μίσθωσιν φέρειν Φορμίωνα τῆς τραπέζης τοῖς παισὶ τοῖς Πασίωνος δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ ἐνιαυτοῦ ἑκάστου, χωρὶς τῆς καθ' ἡμέραν διοικήσεως· μὴ ἐξεῖναι δὲ τραπεζιτεῦσαι χωρὶς Φορμίωνι, ἐὰν μὴ πείσῃ τοὺς παῖδας τοὺς Πασίωνος. ὀφείλει δὲ Πασίων ἐπὶ τὴν τράπεζαν ἕνδεκα τάλαντα εἰς τὰς παρακαταθήκας.[q]

32 Ἃς μὲν τοίνυν παρέσχετο συνθήκας ὡς κατὰ ταύτας μισθωσάμενος τὴν τράπεζαν, αὗταί εἰσιν ὦ ἄνδρες δικασταί. ἀκούετε δ' ἐν ταύταις ἀναγιγνωσκομέναις μίσθωσιν μὲν φέρειν τοῦτον, ἄνευ τῆς καθ' ἡμέραν διοικήσεως, δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ ἐνιαυτοῦ ἑκάστου, μὴ ἐξεῖναι δὲ τραπεζιτεύειν αὐτῷ,

[p] μίσθωσις Σ. [q–q] *om.* Σ.

διορύξαι πράγματα] Lit. '*to undermine*,' '*to ruin*' [here, perhaps, 'to be a rogue in business']. A metaphor from housebreaking. Or. 9 § 28 κακῶς διακείμεθα καὶ διορωρύγμεθα κατὰ πόλεις. Or. 35 (Lacr.) § 9 οἷα ἐτοιχωρύχησαν οὗτοι περὶ τὸ δάνειον, and Philostratus 552 (quoted by Liddell & Scott), τοιχωρυχεῖν τοὺς λόγους τινός. Huettner quotes Aristides, *adv. Lept.* 37 διορύξαι τὸ πρᾶγμα.

31. ἐνεβάλοντο] § 17.

διὰ προκλήσεως] 'by means of,' i.e. 'under cover of,'—'using the Challenge as a cat's paw.' Cf. Fals. Leg. § 291 ἔκρινε Φιλόνεικον καὶ δι' ἐκείνου τῶν σοὶ πεπραγμένων κατηγόρει, where Shilleto quotes the present passage.

κατὰ τάδε ἐμίσθωσε] Similarly in an inscription recording a lease of the year 300 B.C. we have: κατὰ τάδε ἐμίσθωσαν Ἀντίμαχος Ἀμφιμάχου...τὸ ἐργαστήριον τὸ ἐν Πειραιεῖ...Εὐκράτει Ἐξηκίου Ἀφιδναίῳ (*Revue Archéol.* 1866, XIV 352, Dittenberger, *Sylloge*, 440); and in an inscription of 345 B.C. κατὰ τάδε ἐμίσθωσαν Αἰξωνεῖς τὴν Φ[ε]λεῖδα Αὐτοκλεῖ (*C.I.G.* 93; *C.I.A.* II 1055). Kirchner p. 39.

32. μίσθωσιν φέρειν] 36 §§ 33, 51.

τῆς καθ' ἡμέραν διοικήσεως] 'The daily expenditure' involved in managing the bank, paying under-clerks, &c.

ἐὰν μὴ ἡμᾶς πείσῃ. προσγέγραπται δὲ τελευταῖον "ὀφείλει δὲ Πασίων ἕνδεκα τάλαντα εἰς τὰς παρα-"καταθήκας." ἔστιν οὖν ὅστις ἂν τοῦ ξύλου καὶ 33
τοῦ χωρίου καὶ τῶν γραμματείων τοσαύτην ὑπέμεινε φέρειν μίσθωσιν; ἔστι δ' ὅστις ἄν, δι' ὃν ὠφειλήκει τοσαῦτα χρήμαθ' ἡ τράπεζα, τούτῳ τὰ λοιπὰ ἐπέτρεψεν; εἰ γὰρ ἐνεδέησε τοσούτων χρημάτων, τούτου διοικοῦντος ἐνεδέησεν. ἴστε γὰρ πάντες, καὶ ὅτ' ἦν ὁ πατὴρ ἐπὶ τοῦ τραπεζιτεύειν, τοῦτον καθήμενον καὶ διοικοῦντ' ἐπὶ τῇ τραπέζῃ, ὥστ' ἐν τῷ μυλῶνι[r]

[r] μυλῶνι Z et Bekker st.; μύλωνι Bl. *accentum omisit* S.

33. *ἔστιν οὖν—ὑπέμεινε*] Or. 19 § 308 *ἔστιν οὖν...; ἔστιν ὅστις ἂν...ὑπέμεινεν* (Huettner).

ξύλου ... χωρίου ... γραμματείων] The bench (desk or counter)... the site (in the market-place)... the banking-books (ledgers, &c., Or. 52 §§ 6, 14).

ὠφειλήκει ἡ τράπεζα] Phormion's account is that Pasion owed 11 talents to the bank; whereas Apollodorus unfairly, as it seems, treating this sum as a deficit though it stood in Pasion's hands to the *credit* of the bank, denounces Phormion for having caused the bank to get into *debt*. [Apollodorus wishes to throw a doubt on Phormion's ever having had a lease at all on the terms now brought forward. He says he would have been a fool to pay so much for a business that was encumbered if not insolvent; and Pasion would have been equally foolish if he had let the bank to one who had managed it so badly as Phormion. P.]

εἰ γὰρ κ.τ.λ.] A sophistical argument to bear out the previous clause *δι' ὃν ὠφειλήκει ἡ τράπεζα*. It is quite true that *ἡ τράπεζα ἐνεδέησε χρημάτων*, but then the 11 talents in question were held by Pasion on the security of land and were part of the assets of the business.—On *καθήμενον κ.τ.λ.* v. Or. 36 § 7, n.

ἐν τῷ μυλῶνι] So far from being made master of the rest of the household, Phormion ought to have been punished, as a slave, with hard-labour at the mill, for bad management. For the mill, as a common part of slaves' labour, cf. the Phormio of Terence II 1, 18 *herus si redierit, Molendum usque in pistrino, vapulandum, habendae compedes*. In Lysias Or. 1 § 18 a master threatens his *θεράπαινα* with the punishment *μαστιγωθεῖσαν εἰς μυλῶνα ἐμπεσεῖν*, and Dinarchus, contr. Dem. § 23, says that Memnon the miller was condemned to death for making a freeborn boy work in his mill. Cf. Eur. Cycl. 240 *εἰς μυλῶνα καταβαλεῖν*, and Pollux *ἵνα κολάζονται οἱ δοῦλοι, μυλῶνες κ.τ.λ.* (K. F. Hermann, *Privatalt.* § 24, 9, p. 216 Blümner.) The parallel of Samson, 'eyeless in Gaza at the mill

προσῆκεν αὐτὸν εἶναι μᾶλλον ἢ τῶν λοιπῶν κύριον
34 *γενέσθαι. ἀλλ' ἐῶ ταῦτα καὶ τἄλλ' ὅσ' ἂν περὶ* 1112
τῶν ἕνδεκα ταλάντων ἔχοιμ' εἰπεῖν, ὡς οὐκ ὤφειλ' ὁ
πατήρ, ἀλλ' οὗτος ὑφῄρηται. ἀλλ' οὗ ἀνέγνων εἵνεκα[s],
τοῦ τὴν διαθήκην ψευδῆ δεῖξαι, τοῦθ' ὑμᾶς ἀναμνήσω.
γέγραπται γὰρ αὐτόθι, μὴ ἐξεῖναι δὲ τραπεζιτεύειν
Φορμίωνι, ἐὰν μὴ ἡμᾶς πείσῃ. τοῦτο τοίνυν τὸ
γράμμα παντελῶς δηλοῖ ψευδῆ τὴν διαθήκην οὖσαν.
τίς γὰρ ἂν[t] *ἀνθρώπων, ἃ μὲν ἤμελλε*[u] *τραπεζιτεύων*

with slaves,' will occur to every reader (Judges xvi 21, Milton *Samson Agonistes* 41, &c.).—*μύλων* is, in respect of accent, a false form. (Chandler, *Gk. Acc.* § 638.)

34. *ἐῶ ταῦτα κ.τ.λ.*] The speaker, it will be observed, makes no attempt to meet fairly the statement made on the opposite side, accounting for the 11 talents not being actually in the bank. (Or. 36 §§ 4—6.)

ὑφῄρηται] 20 § 24. [Phormion, he says, has filched, or secretly withdrawn, eleven talents from the bank, which he now pretends Pasion and Pasion's heirs were bound to repay. P.]

μὴ τραπεζιτεύειν] The object of this clause appears to have been to prevent Phormion's doing business *on his own account*, apart from the profits made on the bank. The plaintiff seems rather unfairly to suggest that Phormion was allowed to make no profit whatever out of the lease.

τίς γὰρ ἂν κ.τ.λ.] 'Is there any man, I ask, who, after taking precautions to ensure his own children receiving the profits of a lessee's management of the bank, by preventing him from doing business on his own behalf, would have nevertheless actually provided for that lessee's appropriating the profits he had himself laid by in his lifetime and left behind him on his death?' [The two things, he says, are inconsistent. If Phormion must bank only in the interest and for the benefit of Pasion's family, it was not likely that he would have had so much money left him by Pasion; i.e. he must have got it unfairly. The sentence is artificially constructed, and is one of those sometimes called 'bimembered,' where each clause is antithetical to the other, as here *προὐνοήθη ὅπως* to *παρεσκεύασεν ὅπως*. P.]

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[s] *εἵνεκα* Z *et* Bl. *cum* S; *ἕνεκα vulgo* (Dind.).

[t] *ἂν add.* G. H. Schaefer. 'non dubitarem recipere, si modo libri praeberent...sed necessariam esse voculam *ἂν* neutiquam mihi persuadere possum' (Gebauer, *de argumenti ex contrario formis*, p. 181). *om.* Bekker *et* Z *cum libris.*

[u] *ἤμελλε* Z *et* Bl. *cum* S. *ἔμελλε vulgo* (Dind.).

οὗτος ἐργάζεσθαι[v], ταῦθ' ὅπως ἡμῖν τοῖς αὐτοῦ παισίν,
ἀλλὰ μὴ τούτῳ γενήσεται προὐνοήθη, καὶ διὰ τοῦτο
μὴ ἐξεῖναι τούτῳ τραπεζιτεύειν ἔγραψεν, ἵνα μὴ
ἀφίστηται ἀφ' ἡμῶν· ἃ δ' αὐτὸς εἰργασμένος ἔνδον
κατέλειπε, ταῦθ' ὅπως οὗτος λήψεται παρεσκεύασεν;
καὶ τῆς μὲν ἐργασίας ἐφθόνησεν, ἧς οὐδὲν αἰσχρὸν ἦν 35
μεταδοῦναι· τὴν δὲ γυναῖκ' ἔδωκεν, οὗ μεῖζον οὐδὲν
ἂν κατέλειπεν[w] ὄνειδος,[x] τυχών γε τῆς παρ' ὑμῶν
δωρειᾶς, εἶθ' ὥσπερ ἂν δοῦλος δεσπότῃ διδούς, ἀλλ' οὐ
τοὐναντίον, εἴπερ ἐδίδου, δεσπότης οἰκέτῃ, προστιθεὶς

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[v] Bekker. *om.* Z *cum* S. 'quid si [omisso *ἐργάζεσθαι*] *τραπεζιτεύειν* scribimus idque praegnanter dictum putamus pro *τραπεζιτεύων ἐργάζεσθαι*, quem ad modum Horatius carm. III 16, 26 *arandi* verbo usus est?' (Gebauer *l. c.*)

[w] Z *cum* Σ *prima manu; κατέλιπεν* Bekker, Dind.

[x] *ὄνειδος*; edd. *interrogationis signum ad finem paragraphi transferendum esse indicavit* H. W. Moss.

35. *καὶ τῆς μὲν ἐργασίας ἐφθόνησεν*] The subject is *τὶς ἀνθρώπων* repeated from the previous sentence.

οὗ] sc. *ὀνείδους*, viz. the disgrace *τοῦ γυναῖκα τούτῳ δεδωκέναι*.

τυχών γε τῆς παρ' ὑμῶν δωρειᾶς] The fact that Pasion was made a citizen of Athens increases the disgrace brought on his family by his providing in his alleged will that his wife should marry Phormion.—Or. 59 § 2 *ψηφισαμένου τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναῖον εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἐκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν πόλιν* followed by *τῇ τοῦ δήμου δωρειᾷ*. Or. 36 § 47. [*τυχών γε* seems an imaginary answer in favour of Phormion; 'very true; but then it was after he had received the franchise (that he took the wife).' 'So then' (the retort is), 'like a slave who makes a wife over to his master, rather than in the converse case, Pasion gave him, it seems, a marriage portion larger than any citizen ever did!' P.]

ὥσπερ ἂν] sc. *διδοίη*. Pasion's gift of his wife with a large dowry to Phormion, is the kind of gift a slave might offer his master in acknowledgment that all the slave had belonged by right to his master, and not such a gift as might be expected from a superior to an inferior. In the latter case a very slight favour would be enough. At any rate the inferior would be content with being allowed to have the honour of being married to his superior's wife, without any dowry at all.

εἴπερ ἐδίδου] which Apoll. does not admit.

προστιθεὶς προῖκα] Eur. Hippol. 628 *προσθεὶς...πατὴρ φερνάς*. Or. 40 § 25 *προσθέντας* (sc.

36 προῖκα ὅσην οὐδεὶς τῶν ἐν τῇ πόλει φαίνεται; καίτοι τούτῳ μὲν αὐτὸ τοῦτ' ἀγαπητὸν ἦν, τὸ τῆς δεσποίνης ἀξιωθῆναι· τῷ πατρὶ δὲ οὐδὲ λαμβάνοντι[y] τοσαῦτα χρήματα, ὅσα φασὶ διδόνθ' οὗτοι, εὔλογον ἦν πρᾶξαι ταῦτα. ἀλλ' ὅμως ἃ τοῖς εἰκόσι, τοῖς χρόνοις, τοῖς πεπραγμένοις ἐξελέγχεται ψευδῆ, ταῦτα μαρτυρεῖν οὐκ ὤκνησεν οὑτοσὶ Στέφανος.

37 Εἶτα λέγει περιιών, ὡς ἐμαρτύρησε μὲν Νικοκλῆς

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[y] Bekker. λαμβάνοντα Z *cum* S.

προῖκα) ἐκδοῦναι. Fals. Leg. § 195 προῖκα προσθεὶς ἐκδώσω καὶ οὐ περιόψομαι παθούσας οὐδὲν ἀνάξιον οὔθ' ἡμῶν οὔτε τοῦ πατρός (cf. § 54 infra προῖκα ἐπιδοὺς ἐκδοῦναι, n.). Isaeus Or. 3 (Pyrrhus) § 51 δοκεῖ δ' ἄν τις ὑμῖν οὕτως ἀναιδὴς ἢ τολμηρὸς εἰσποίητος γενέσθαι ὥστε μηδὲ τὸ δέκατον μέρος ἐπιδοὺς ἐκδοῦναι τῇ γνησίᾳ θυγατρὶ τῶν πατρῴων; Hyperides, Lycophron col. 11 line 16 εὐθὺς ἐξεδόθη, τάλαντον ἀργυρίου προσθέντος αὐτῇ Εὐφήμου. The commoner term was ἐπιδοῦναι (cf. §§ 30, 54, &c.).

ὅσην οὐδεὶς κ.τ.λ.] The mother of Demosthenes had a dowry of only 80$^{\text{m}}$: the mother of Mantitheus 60$^{\text{m}}$; the two daughters of Polyeuctus 40$^{\text{m}}$ each. (Dareste.)

36. λαμβάνοντι χρήματα] Not even if he got from Phormion (viz. as a bribe for leaving him his wife) the same large amount which the defendants pretend that he gave Phormion as a marriage portion.—φασὶ διδόντα, supply πρᾶξαι ταῦτα.

τοῖς εἰκόσι...ἐξελέγχεται ψευδῆ] 'That which the facts, the dates, the probabilities of the case, show to be false, Stephanus the defendant has not scrupled to bear witness to.' Kennedy. For τοῖς εἰκόσι see esp. §§ 9—14. τοῖς χρόνοις...ἐξελέγχεται (cf. 19 § 60) seems inexplicable, except as a rhetorical flourish, for we have had nothing like an argument from dates; and Dobree rightly asks *Quomodo?*. Huettner suggests a reference to § 33. Even τοῖς πεπραγμένοις is barely justifiable, unless it is to be referred to §§ 15—18.

§§ 37—39. *Phormion attempts to prove the existence of the 'will,' by going about saying that Nicocles gave evidence to having been guardian, and Pasicles to having been in wardship, under the will. Why then were not the terms of the will deposed to by Nicocles and Pasicles, instead of by Stephanus and his friends? Was it because the former did not know the terms? If not, much less could the latter. How then came the latter witnesses to depose to one set of facts, the former to another? It's the old story; they divided the responsibility of the wrong; the guardian and ward deposed to the guardianship as being under the will, and the other witnesses, under cloak of a challenge, deposed to the contents —the scandalous contents—of the 'will.'*

37. Νικοκλῆς] Possibly the

ἐπιτροπεῦσαι κατὰ τὴν διαθήκην, ἐμαρτύρησε δὲ Πα-
σικλῆς ἐπιτροπευθῆναι κατὰ τὴν διαθήκην. ἐγὼ δ'
αὐτὰ ταῦτ' οἶμαι τεκμήρι' εἶναι τοῦ μήτ' ἐκείνους τἀ-
1113 ληθῆ μήτε τούσδε μεμαρτυρηκέναι. ὁ γὰρ ἐπιτροπεῦ-
σαι κατὰ διαθήκας μαρτυρῶν, δῆλον ὅτι καθ' ὁποίας
ἂν εἰδείη, καὶ ὁ ἐπιτροπευθῆναι κατὰ διαθήκας μαρ-
τυρῶν, δῆλον ὅτι καθ' ὁποίας ἂν εἰδείη. τί οὖν μαθόν- 38
τες[z] ἐμαρτυρεῖθ' ὑμεῖς ἐν προκλήσει διαθήκας, ἀλλ'
οὐκ ἐκείνους εἰᾶτε; εἰ γὰρ αὖ μὴ φήσουσιν εἰδέναι τὰ
γεγραμμέν' ἐν αὐταῖς, πῶς ὑμᾶς οἷόν τ' εἰδέναι τοὺς
μηδαμῇ[a] μηδαμῶς τοῦ πράγματος ἐγγύς; τί ποτ' οὖν
οἱ μὲν ἐκεῖνα, οἱ δὲ ταῦτ' ἐμαρτύρησαν; ὅπερ εἴρηκα
καὶ πρότερον, διείλοντο τἀδικήματα, καὶ ἐπιτροπεῦσαι
μὲν κατὰ διαθήκην οὐδὲν δεινὸν ἡγεῖτο μαρτυρεῖν ὁ
μαρτυρῶν, οὐδ' ἐπιτροπευθῆναι κατὰ διαθήκην, ἀφαι- 39
ρῶν ἑκάτερος τὸ μαρτυρεῖν τὰ ἐν ταῖς διαθήκαις ὑπὸ
τούτου γεγραμμένα, οὐδὲ καταλιπεῖν τὸν πατέρ' αὐτῷ[b]

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[z] παθόντες H. Wolf *et* Dindf. (1867). μαθόντες Bekker Z *et* Dindf. (1846 *et* 1855) *cum libris*.

[a] Z *cum* S.

[b] αὑτῷ Z.

same as N. the Anagyrasian, son of Hegesippus, mentioned in *C. I. G.* I no. 408 (A. Schaefer, *Dem.* III 2, 133). The evidence of Nicocles is not expressly mentioned in Or. 36; that of Pasicles is referred to in § 22 of that speech.

κατὰ τὴν διαθήκην] Or. 36 § 8 Φορμίων τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπευεν.

καθ' ὁποίας ἂν εἰδείη] 'would know the purport of (*the terms of*) such will.' [The repetition of the clause δῆλον—εἰδείη seems needless, and perhaps is due to a copyist. P.]

38. τί μαθόντες] Or. 20 § 127; 29 § 20. Madvig, *Gk. Synt.* § 176 (b) R.; or Goodwin's *Moods and Tenses* § 109 (b). ['What then induced *you* to give evidence of a will in connexion with a challenge, instead of letting *them* prove it for you?' P.]

ὑμεῖς] sc. οἱ περὶ Στέφανον.—ἐκείνους, Nicocles and Pasicles.

οἱ μὲν...οἱ δὲ] Nicocles and Pasicles...οἱ περὶ Στέφανον.—εἴρηκα καὶ πρότερον refers to § 18.

39. ἀφαιρῶν ἑκάτερος] i.e. both of them declining to depose to the terms entered in the will *by Phormion*, not by Pasion himself as is alleged.

καταλιπεῖν] sc. δεινὸν ἡγεῖτο μαρτυρεῖν. The previous parti-

ἐπιγεγραμμένον γραμματεῖον διαθήκην, οὐδὲ τὰ τοιαῦτα· διαθήκας δὲ μαρτυρεῖν, ἐν αἷς χρημάτων τοσούτων κλοπή, γυναικὸς διαφθορά, γάμοι δεσποίνης, πράγματ' αἰσχύνην καὶ ὕβριν τοσαύτην ἔχοντα, οὐδεὶς ἤθελε πλὴν οὗτοι, πρόκλησιν κατασκευάσαντες, παρ' ὧν δίκαιον τῆς ὅλης τέχνης καὶ κακουργίας δίκην λαβεῖν.

40 Ἵνα τοίνυν ὦ ἄνδρες Ἀθηναῖοι μὴ μόνον ἐξ ὧν ἐγὼ κατηγορῶ καὶ ἐλέγχω, δῆλος ὑμῖν γένηται τὰ ψευδῆ μεμαρτυρηκὼς οὑτοσὶ Στέφανος, ἀλλὰ καὶ ἐξ ὧν πεποίηχ' ὁ παρασχόμενος αὐτόν[c], τὰ πεπραγμέν' ἐκείνῳ βούλομαι πρὸς ὑμᾶς εἰπεῖν. ὅπερ δ' εἶπον ἀρχόμενος τοῦ λόγου, δείξω κατηγόρους γιγνομένους αὐτοὺς ἑαυτῶν. τὴν γὰρ δίκην, ἐν ᾗ ταῦτα ἐμαρτυρήθη, παρεγράψατο Φορμίων πρός με[d] μὴ εἰσαγώγιμον εἶναι, 1114

[c] *propter syllabas breves antecedentes* τοῦτον *mavult* Bl. *coll.* § 71. [d] πρός με Bl. *coll.* 48 §§ 32, 50, 53; πρὸς ἐμὲ *vulgo.*

cipial sentence is subordinate only, and does not carry καταλιπεῖν with it. 'There was no danger in a minor (i.e. Pasicles) deposing that his father had left him a document entitled "a will."' Kennedy. Lit. 'with the word WILL written upon it'; § 18 ᾧ ἐπιγεγράφθαι διαθήκη Πασίωνος.

For ἐπιγεγραμμένον διαθήκην cf. Virg. Ecl. III 196 *inscripti nomina regum...flores.*

χρημάτων κλοπή] § 34 ὑφήρηται and § 81 init.—γυναικὸς διαφθορὰ §§ 27 and 3.—On ὕβριν cf. § 4, where the γάμος leads to a γραφὴ ὕβρεως being threatened by Apollodorus.

§§ 40—42. *In bar of the previous action, Phormion pleaded a discharge deposed to have been granted by me, releasing him from all further claims. This is false, as I shall prove at the proper time; but even assuming it to be true, it shows that Stephanus has given false evidence and that the will to which he bears witness is a forgery. For no one would be so foolish as to take the precaution of having witnesses present when he gave a discharge to a lessee with a view to getting rid of any claims against himself on the part of that lessee;* and yet *allow the 'lease' itself and the 'will' to remain sealed to his detriment. The plea is therefore inconsistent with the evidence and the lease is inconsistent with the will; and thus the whole affair is proved to be a fabrication and a fraud.*

40. παρεγράψατο...ὡς ἀφέντος] See notes on Or. 36 *Argument* l. 23 and *ib.* § 25. The

ὡς ἀφέντος ἐμοῦ τῶν ἐγκλημάτων αὐτόν. τοῦτο τοίνυν 41
ἐγὼ μὲν οἶδα ψεῦδος ὄν, καὶ ἐλέγξω δ', ὅταν εἰσίω
πρὸς τοὺς ταῦτα μεμαρτυρηκότας· τούτῳ δ' οὐχ οἷόν
τε τοῦτ' εἰπεῖν. εἰ τοίνυν[e] ἀληθῆ πιστεύσαιτ' εἶναι
τὴν ἄφεσιν, οὕτω καὶ μάλιστ' ἂν οὗτος φανείη ψευδῆ
μεμαρτυρηκὼς καὶ κατεσκευασμένης διαθήκης μάρτυς
γεγονώς. τίς γὰρ οὕτως ἄφρων ὥστ' ἄφεσιν μὲν ἐναντίον
μαρτύρων ποιήσασθαι, τοῦ βεβαίαν αὐτῷ[f] τὴν
ἀπαλλαγὴν εἶναι, τὰς δὲ συνθήκας καὶ τὰς διαθήκας
καὶ τἄλλ', ὑπὲρ ὧν ἐποιεῖτο τὴν ἄφεσιν, σεσημασμέν'

[e] γὰρ *expectaveris* (Bl.).

[f] αὑτῷ Z.

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distinction there drawn between ἀφιέναι and ἀπαλλάττειν may be exemplified thus:

ἀφῆκε μὲν Ἀπολλόδωρος ὁ ἀπαλλαγείς, ἀπήλλαξε δὲ Φορμίων ὁ ἀφεθείς.

41. τούτῳ κ.τ.λ.] *Stephanus*, however, has no right to declare that the evidence to the release is false. [The meaning is, that Stephanus was in league with Phormion, and therefore was not in a position to deny, though he knew it to be untrue, any plea of Phormion's against Apollodorus. P.]

τοῦ βεβαίαν αὐτῷ τὴν ἀπαλλαγὴν εἶναι] The plaintiff's object in having witnesses to his alleged ἄφεσις of Phormion would be to ensure his own ἀπαλλαγή, that is, his getting quit of any counter-claim on the part of the latter. Or. 33 § 3 πάντων ἀπαλλαγῆς καὶ ἀφέσεως γενομένης. Cf. 36 § 25.

If ἀπαλλαγή were synonymous with ἄφεσις, we should have to render 'in order to make his discharge of Phormion's dues valid.' 'Who would be such a fool,' he would then ask, 'as to give an ἄφεσις in presence of witnesses and so lose all right to further claims?' But the sense is rather: 'Admit it true that the plaintiff gave a release to Phormion in the presence of witnesses with a view to his own riddance of any counter-claim on Phormion's part; no one who had (as alleged) done this, would be such a fool as to allow the compacts and agreements, the will, &c. (καὶ τἄλλα sc. περὶ τὴν μίσθωσιν) to remain in existence to his own detriment. No! if he had given a receipt, he would have opened and suppressed the documents. But, as a fact, he had not touched them, and his refraining from suppressing them is thus inconsistent with the alleged grant of a release to Phormion.'—ποιήσασθαι ἄφεσιν not 'to get' but 'to give a release,'=ἀφεῖναι, as 'any verb in Greek may be resolved into the cognate substantive with ποιεῖσθαι.' Shilleto on Fals. Leg. § 103.

βεβαίαν] This form of the feminine is found in 1 § 7; 2 § 10; 16 § 10; 17 § 18. βέβαιος, in 24 § 37; 23 § 3; 20 § 71.

42 ἐᾶσαι καθ' αὑτοῦ κεῖσθαι; οὐκοῦν ἐναντία μὲν ἡ
παραγραφὴ πᾶσι τοῖς μεμαρτυρημένοις, ἐναντία δ',
ἣν ἀνέγνων ὑμῖν ἄρτι, μίσθωσις, τῇδε τῇ διαθήκῃ·
οὐδὲν δὲ τῶν πεπραγμένων οὔτ' εὔλογον οὔθ' ἁπλοῦν
οὔθ' ὁμολογούμενον αὐτὸ ἑαυτῷ φαίνεται. ἐκ δὲ τούτου
τοῦ τρόπου[g] πάντα πεπλασμένα καὶ κατεσκευασμέν'
ἐλέγχεται.

43 Ὡς μὲν τοίνυν ἐστὶν ἀληθῆ τὰ μεμαρτυρημένα,
οὔτ' αὐτὸν τοῦτον οὔτ' ἄλλον ὑπὲρ τούτου δεῖξαι δυνήσεσθαι
νομίζω. ἀκούω δ' αὐτὸν τοιοῦτόν τι παρεσκευάσθαι
λέγειν, ὡς προκλήσεώς ἐστιν ὑπεύθυνος,
οὐχὶ μαρτυρίας, καὶ δυοῖν αὐτῷ προσήκει δοῦναι
λόγον, οὐ πάντων τῶν γεγραμμένων, εἴτε προὐκαλεῖτό
με ταῦτα Φορμίων ἢ μή, καὶ εἰ μὴ ἐδεχόμην ἐγώ·
ταῦτα μὲν γὰρ ἁπλῶς αὐτὸς μεμαρτυρηκέναι φήσει,
τὰ δ' ἄλλ' ἐκεῖνον προκαλεῖσθαι, εἰ δ' ἐστὶν ἢ μὴ
44 ταῦτα, οὐδὲν προσήκειν αὐτῷ σκοπεῖν. πρὸς δὴ τὸν

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[g] Z, Dind. Bl. *cum libris.* τοῦ τούτου τρόπου Bekker *cum Reiskio.*

42. ἐναντία μίσθωσις...διαθήκῃ] §§ 34—36. For πεπλασμένα καὶ κατεσκευασμένα cf. § 13, Or. 36 § 33; also 38 § 9; 22 § 4; 19 § 154; and Isaeus 11 § 22 (Huettner).—ἐκ τούτου τοῦ τρόπου, 'in this manner.' Kennedy, doubtless following Bekker's text (ἐκ τοῦ τούτου τρόπου), translates: 'just what you might expect from this man's character.'

§§ 43—46. *Stephanus will urge, that he is not responsible for a deposition but for a challenge, and for the latter on two points only, (1) the question whether Phormion made this challenge or not, and (2) whether I refused it; and that the terms of the challenge mentioned in the deposition are Phormion's business, not his. If so, the witness ought to have had the words erased when his deposition was drawn up. It is now too late to disclaim them, and he is bound in this trial by the terms of his own plea that he 'gave true testimony, in testifying to that which is written in the record.'*

43. ὡς μὲν κ.τ.λ.] Imitated in Or. 59 § 119.

προκλήσεως ὑπεύθυνος] liable to be prosecuted for giving evidence of a pretended challenge that never took place. This is clear from what follows: δεῖ αὐτὸν δοῦναι λόγον εἴτε προὐκαλεῖτο Φ. ἢ μή.

λόγον τοῦτον καὶ τὴν ἀναίδειαν βέλτιόν ἐστι μικρὰ
1115 προειπεῖν ὑμῖν, ἵνα μὴ λάθητ' ἐξαπατηθέντες. πρῶτον
μέν, ὅταν ἐγχειρῇ λέγειν τοῦθ', ὡς ἄρ' οὐ πάντων
ὑπεύθυνός ἐστιν, ἐνθυμεῖσθ' ὅτι διὰ ταῦθ' ὁ νόμος
μαρτυρεῖν ἐν γραμματείῳ κελεύει, ἵνα μήτ' ἀφελεῖν
ἐξῇ μήτε προσθεῖναι τοῖς γεγραμμένοις μηδέν. τότ'
οὖν αὐτὸν ἔδει ταῦτ' ἀπαλείφειν κελεύειν, ἃ νῦν οὐ
φήσει[h] μεμαρτυρηκέναι, οὐ νῦν ἐνόντων ἀναισχυντεῖν.
ἔπειτα καὶ τόδε σκοπεῖτε, εἰ ἐάσαιτ' ἂν ἐναντίον ὑμῶν 45
ἐμὲ προσγράψαι τι λαβόντα τὸ γραμματεῖον. οὐ
δήπου. οὔκουν οὐδὲ τοῦτον ἀφαιρεῖν τῶν γεγραμμένων
ἐᾶν προσήκει· τίς γὰρ ἁλώσεταί ποτε[i] ψευδομαρτυριῶν,
εἰ μαρτυρήσει θ' ἃ βούλεται, καὶ λόγον ὧν
βούλεται δώσει; ἀλλ' οὐχ οὕτω ταῦτ' οὔθ' ὁ νόμος
διεῖλεν οὔθ' ὑμῖν ἀκούειν προσήκει· ἀλλ' ἐκεῖν' ἁπλοῦν
καὶ δίκαιον. τί γέγραπται; τί μεμαρτύρηκας; ταῦθ'

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[h] *οὐ φήσει prima manu* S (Bl.); *οὔ φησι vulgo* (Dind.).

[i] *πώποτε* Z *cum libris; ποτε* Bl. *ἔτι ποτὲ et hiatu et syllabis brevibus admissis* Dind.

44. *μαρτυρεῖν ἐν γραμματείῳ*] 'All testimonial evidence was required to be in writing, in order that there might be no mistake about the terms and the witness might leave no subterfuge for himself when convicted of falsehood.' C. R. Kennedy in Dict. Antiq. s. v. *Martyria*.

ἀπαλείφειν] Used of any obliteration or erasure, whether the document was on a tablet of wax, or, as in this case, of some other material, as we learn from Or. 46 § 11 where the deposition in question is described as *λελευκωμένον* and not *ἐν μάλθῃ γεγραμμένον*.

οὐ νῦν ἐνόντων ἀναισχυντεῖν] 'The terms being in the deposition, he ought not to have the impudence to repudiate them *now*.'

45. *εἰ ἐάσαιτ' ἂν*] When *εἰ* stands for *εἴτε* or *πότερον*, to express an alternative of probabilities, it sometimes takes *ἄν*, which would, in the ordinary sense of *εἰ*, be inadmissible.

ἁλώσεται.......ψευδομαρτυριῶν] For the gen. cf. Or. 24 § 103 *ἐάν τις ἁλῷ κλοπῆς καὶ μὴ τιμηθῇ θανάτου..., καὶ ἐάν τις ἁλοὺς τῆς κακώσεως τῶν γονέων..., κἂν ἀστρατείας τις ὄφλῃ*. (Kühner, *Gk. Gr.* § 419, 2 p. 331.)—*ὧν βούλεται*, supply *μόνον*.

διεῖλεν] 23 §§ 54, 70, 79. See note on *Lept.* § 28 *διείρηκεν ὁ νόμος*.

ὡς ἀληθῆ δείκνυε. καὶ γὰρ ἀντιγέγραψαι ταῦτ'
"ἀληθῆ μεμαρτύρηκα, μαρτυρήσας τἀν τῷ γραμ-
"ματείῳ γεγραμμένα," οὐ τὸ καὶ τὸ τῶν ἐν τῷ γραμ-
46 *ματείῳ. ὅτι δ' οὕτω ταῦτ' ἔχει, λαβὲ τὴν ἀντιγραφὴν*
αὐτήν μοι. λέγε.

ΑΝΤΙΓΡΑΦΗ.

[j]Απολλόδωρος Πασίωνος Ἀχαρνεὺς Στεφάνῳ Μενεκλέους Ἀχαρνεῖ ψευδομαρτυριῶν, τίμημα τάλαντον.

τὰ ψευδῆ μου κατεμαρτύρησε Στέφανος μαρτυρήσας[k] τὰ ἐν τῷ γραμματείῳ γεγραμμένα.	[l]τἀληθῆ ἐμαρτύρησα μαρτυρήσας τὰ ἐν τῷ γραμματείῳ γεγραμμένα.[j]

Ταῦθ' οὗτος αὐτὸς[m] *ἀντεγράψαθ', ἃ χρὴ μνημο-* 1116
νεύειν ὑμᾶς, καὶ μὴ τοὺς ἐπ' ἐξαπάτῃ νῦν λόγους

[j–j] *om.* S. [k] *γράψας* Pollux.

[l] *Στέφανος Μενεκλέους Ἀχαρνεὺς addidit cum Reiskio* Bekker, Dind. *om.* Z *et* Bl. *cum libris.*

[m] *om.* Z *et* Bekker st. *cum* S; *om.* Pollux.

δείκνυε] Plat. *Phaedr.* 228 E, 268 A. Neither *δεικνυ* nor *ἐδεικνυ* is found in Dem. *ἐδείκνυε* occurs in 18 § 233; 19 § 114; 34 § 42 (Huettner).

ἀντιγέγραψαι] 'You have pleaded' in answer to the indictment or plaint (*λῆξις*); see Dict. Antiq. s. v. *Antigraphe*. 'The two pleadings together, the plaint on the left side, the plea on the right, form (as we should say) the issue on the record. The deposition complained of was annexed' (C. R. Kennedy). Cf. Meier and Schömann, p. 830 Lips.—*τὸ καὶ τὸ*, 'so and so'; 'this or that,' cf. 9 § 68; 18 § 243; 19 § 74; 21 § 141; 54 § 26, and similarly *τόσα καὶ τόσα*. 34 § 24.

46. *τὴν ἀντιγραφὴν*] Harpocr. s. v. *τὰ τῶν δικαζομένων γράμματα, ἃ ἐδίδοσαν περὶ τοῦ πράγματος, καὶ τὰ τοῦ διώκοντος καὶ τὰ τοῦ φεύγοντος, ἀντιγραφή, καὶ τὰ μαρτύρια· Δημ. κατὰ Στεφάνου*... The document that follows, is the only specimen of an *ἀντιγραφὴ* that has come down to us. Though rejected by Westermann, and bracketed by Dindorf, it is quoted by Pollux 8, 58 and in the *lexicon rhetoricum Cantabrigiense*, p. 664.

ἐπ' ἐξαπάτῃ] Or. 20 (Lept.) § 98 *ἐξαπάτης ἕνεκα.—ῥηθησομένους*. This future is used *chiefly* in the participle and infinitive (22 § 4; 27 § 53; 47 § 3; 58 § 25), while the 'third future' is probably confined to the third person singular *εἰρήσεται* (Veitch *Greek Verbs* s. v. **εἴρω*). *ῥηθήσεται* however is found in Thuc. I 73, Ar. Ethics IV. 1, 14, and Rhet. I 12 and 13.

[ὑπὸ τούτου][n] ῥηθησομένους πιστοτέρους ποιεῖσθαι τῶν νόμων καὶ τῶν ὑπὸ τούτου γραφέντων εἰς τὴν ἀντιγραφήν.

47 *Πυνθάνομαι τοίνυν αὐτοὺς καὶ περὶ ὧν ἔλαχον τὴν ἐξ ἀρχῆς δίκην ἐρεῖν καὶ κατηγορήσειν, ὡς συκοφαντήματ' ἦν. ἐγὼ δ' ὃν μὲν τρόπον ἐσκευωρήσατο τὴν μίσθωσιν, ὅπως τὴν ἀφορμὴν τῆς τραπέζης κατάσχοι, εἶπον καὶ διεξῆλθον ὑμῖν, ὑπὲρ δὲ τῶν ἄλλων οὐκ ἂν οἷός τ' εἴην λέγειν ἅμα καὶ τούτους ἐλέγχειν περὶ τῆς μαρτυρίας· οὐ γὰρ ἱκανόν μοι τὸ ὕδωρ ἐστίν.* 48 *ὅτι δ' οὐδ' ὑμεῖς ἐθέλοιτ' ἂν εἰκότως ἀκούειν περὶ τούτων αὐτῶν, ἐκεῖθεν εἴσεσθ', ἂν λογίσησθε πρὸς ὑμᾶς αὐτοὺς ὅτι οὔτε νῦν ἐστιν χαλεπὸν περὶ ὧν μὴ κατηγόρηται λέγειν, οὔτε[o] ψευδεῖς ἀναγνόντα μαρτυρίας*

[n] *secl.* Bl. *qui ὑπὸ τούτων conicit; τουτ' ουν prima manu* S.

[o] *οὔτε τότε, quod ad sententiam attinet, optime Dobree; sed syllabae breves ferri nequeunt.*

§§ 47—50. *I hear they propose to speak of my original action and to denounce it as fraudulent and vexatious. But I submit that this would be irrelevant to the present issue, and I claim that, instead of their being allowed to go into the proofs of the original claim which they debarred me from adducing, they should be compelled, in the interests of justice and for the convenience of the jury, to keep to the record, and prove that the testimony by which they deprived me of those proofs was true.*

47. *πυνθάνομαι*] Lycurg. 55 *πυνθάνομαι δέ*, Dem. 21 § 208 *πέπυσμαι τοίνυν.*

περὶ ὧν = περὶ τούτων περὶ ὧν. δίκην λαγχάνειν περί τινος is, however, rare (40 §§ 17, 31, 35); cf. *λαγχάνειν περί τινος* (37 § 18). Elsewhere the genitive alone is used (Huettner).

τὴν ἐξ ἀρχῆς δίκην] The original indictment of Phormion in the *δίκη ἀφορμῆς* to which Or. 36 is a *παραγραφή*.

συκοφαντήματ'] not found elsewhere in the Demosthenic speeches.

ὅπως κατάσχοι, sup. § 27.—*εἶπον καὶ διεξῆλθον* sc. in §§ 29—36.

τὸ ὕδωρ] see Or. 54 § 36.

48. *οὔτε νῦν κ.τ.λ.*] i.e. 'it is easy enough for my opponents to introduce into their reply matter that is irrelevant to the case and is in no part of my indictment, just as formerly it was easy enough for them to get an acquittal by reciting false depositions.'

Whether we read *οὔτε τότε ψευδεῖς* or not, we must in either case take the second clause as a pointed reference to the *former* trial.

49 ἀποφεύγειν. ἀλλ' οὐδέτερόν γε δίκαιον τούτων οὐδ'
ἂν εἷς φήσειεν εἶναι, ἀλλ' ὃ ἐγὼ προκαλοῦμαι νῦν.
σκοπεῖτε δ' ἀκούσαντες. ἐγὼ γὰρ ἀξιῶ, οὓς μὲν ἀφείλοντό
μ' ἐλέγχους περὶ τῶν ἐγκλημάτων, οὓς προσῆκον
ἦν ῥηθῆναι, μὴ ζητεῖν αὐτοὺς νῦν, αἷς δ' ἀφείλοντο
μαρτυρίαις, ὡς εἰσὶν ἀληθεῖς, δεικνύναι. εἰ δ' ὅταν μὲν
τὴν δίκην εἰσίω, τὰς μαρτυρίας μ' ἐλέγχειν ἀξιώσουσιν,
ὅταν δὲ ταύταις ἐπεξίω, περὶ τῶν ἐξ ἀρχῆς ἐγκλημάτων
λέγειν με κελεύσουσιν, οὔτε δίκαι' οὔτε ὑμῖν
50 συμφέροντ' ἐροῦσιν. δικάσειν γὰρ ὀμωμόκαθ' ὑμεῖς
οὐ περὶ ὧν ἂν ὁ φεύγων ἀξιοῖ, ἀλλ' ὑπὲρ αὐτῶν ὧν ἂν
ἡ δίωξις ᾖ. ταύτην δ' ἀνάγκη τῇ τοῦ διώκοντος λήξει
δηλοῦσθαι, ἣν ἐγὼ τούτῳ ψευδομαρτυριῶν εἴληχα.
μὴ δὴ τοῦτ' ἀφεὶς περὶ ὧν οὐκ ἀγωνίζεται λεγέτω· 1117
μηδ' ὑμεῖς ἐᾶτ', ἂν[p] ἄρ' οὗτος ἀναισχυντῇ.

51 Οἴομαι[q] τοίνυν αὐτὸν οὐδὲν οὐδαμῇ[r] δίκαιον ἔχοντα
λέγειν ἥξειν κἀπὶ τοῦτο, ὡς ἄτοπον ποιῶ, παραγραφὴν ἡττημένος, τοὺς διαθήκην μαρτυρήσαντας

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[p] ἐὰν Z *cum* S.

[q] Z *et* Bl. *cum* S (*cf. Or.* 36 § 18); οἶμαι Dind.

[r] Z *et* Bl. *cum* S; οὐδαμῇ Dind.

49. αἷς δὲ ἀφείλοντο μαρτυρίαις] sc. τοὺς ἐλέγχους.—On τὴν δίκην εἰσίω, see note on § 7 πρὸς ἐκείνους εἰσίω.

50. περὶ...ὑπὲρ] § 11 n.

δίωξις] (Dem.) Or. 47 § 70 οἱ δὲ νόμοι τούτων κελεύουσι τὴν δίωξιν εἶναι. The word is also found in Antiphon Or. 6 § 7 τὴν δίωξιν εὐσεβείας ἕνεκα ποιεῖσθαι.—On λήξει...εἴληχα cf. Or. 36 § 21 λήξεων.

§§ 51, 52. *The defendant will urge that the jury in the former trial were led to dismiss my suit by reason of the witnesses in support of the discharge on which Phormion's special plea was based; and not by reason of those who (like himself) gave evidence to the will, as part of the main issue. But I reply that every one knows that juries look to the main issue as well as to the special plea, and I contend that witnesses to the main issue (like the defendant) crippled my case on the special plea. Where all gave false evidence, it is not enough for any individual defendant to point out that some other witness damaged my case more than he did, but he must prove that his own evidence is true.*

51. παραγραφὴν ἡττημένος] 24 § 15 τὰς γραφὰς ἥττηντο.

διώκων, καὶ τοὺς δικαστὰς τοὺς τότε φήσειν[a] διὰ τοὺς
ἀφεῖναι μεμαρτυρηκότας ἀποψηφίσασθαι μᾶλλον ἢ
διὰ τοὺς διαθήκην μαρτυρήσαντας. ἐγὼ δ' ὦ ἄνδρες
Ἀθηναῖοι νομίζω πάντας ὑμᾶς εἰδέναι, ὅτι οὐχ ἧττον
τὰ πεπραγμέν' εἰώθατε σκοπεῖν ἢ τὰς ὑπὲρ τούτων
παραγραφάς· περὶ δὴ τῶν πραγμάτων αὐτῶν τὰ
ψευδῆ καταμαρτυρήσαντες οὗτοί μου, ἀσθενεῖς τοὺς
περὶ τῆς παραγραφῆς ἐποίησαν λόγους. χωρὶς δὲ 52
τούτων ἄτοπον, πάντων τὰ ψευδῆ μαρτυρησάντων,
τίς μάλιστ' ἔβλαψεν ἀποφαίνειν, ἀλλ' οὐχ ὡς αὐτὸς
ἕκαστος ἀληθῆ μεμαρτύρηκε δεικνύναι. οὐ γάρ, ἂν
ἕτερον δείξῃ δεινότερ' εἰργασμένον, ἀποφεύγειν αὐτῷ
προσήκει, ἀλλ' ἂν αὐτὸς ὡς ἀληθῆ μεμαρτύρηκ'
ἀποφήνῃ.

53 Ἐφ' ᾧ τοίνυν ὦ ἄνδρες Ἀθηναῖοι μάλιστ' ἀπολωλέναι δίκαιός ἐστιν οὑτοσὶ Στέφανος, τοῦτ' ἀκούσατέ μου. δεινὸν μὲν γάρ ἐστιν εἰ καὶ καθ' ὅτου τις οὖν τὰ ψευδῆ μαρτυρεῖ, πολλῷ δὲ δεινότερον καὶ πλεί-

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[a] *cum Reiskio* Bekker. φήσει Z *cum libris*.

ἀφεῖναι] sc. τῶν ἐγκλημάτων Φορμίωνα. Or. 36 §§ 23—25.

τὰ πεπραγμένα] The facts of the case on its merits, as opposed to the special plea. See note on Or. 36 *Argument* l. 23 ἅπτεται τῆς εὐθείας κ.τ.λ.

ἀσθενεῖς ἐποίησαν κ.τ.λ.] 'Weakened my arguments on the special plea.' This need not imply that he actually spoke; as a matter of fact, we find the court would not listen to him (§ 6).

52. ἀποφαίνειν...δεικνύναι] 18 § 206; 27 § 62; 55 § 6.

§§ 53—56. *By giving false evidence against* me, *the defendant has done wrong to the unwritten laws of natural affection, for my wife is his first cousin. Very different has been the conduct of my wife's father, Deinias, who holds himself debarred by the claims of kinship from giving even true evidence on my behalf against my opponent Stephanus, who is his sister's son.*

53. ἀπολωλέναι] 'To be put to death' for bearing false witness against his own relations, Apollodorus having married the first cousin of Stephanus.

καθ' ὅτου τις οὖν] = καθ' ὁτουοῦν ὁστισοῦν; like ὁπωστιοῦν = ὁτιοῦν καὶ ὁπωσοῦν, 40 § 8 ὅντινα δή ποτ' οὖν.

ονος ὀργῆς ἄξιον, εἰ κατὰ τῶν συγγενῶν· οὐ γὰρ τοὺς
γεγραμμένους νόμους ὁ τοιοῦτος ἄνθρωπος μόνους[t],
ἀλλὰ καὶ τὰ τῆς φύσεως οἰκεῖ'[u] ἀναιρεῖ. τοῦτο τοίνυν
54 ἐπιδειχθήσεται πεποιηκὼς οὗτος[v]. ἔστι γὰρ ἡ τούτου
μήτηρ καὶ ὁ τῆς ἐμῆς γυναικὸς πατὴρ ἀδελφοί, ὥστε
τὴν μὲν γυναῖκα τὴν ἐμὴν ἀνεψιὰν εἶναι τούτῳ, τοὺς

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[t] *Herwerden* (Bl.); *μόνος* S *prima manu; μόνον vulg.* Dind.

[u] *δίκαια* Cobet.

[v] Z *et* Bekker st. *cum* S; *οὑτοσί* Bekk.

τοὺς γεγραμμένους νόμους...τὰ τῆς φύσεως οἰκεῖα] Soph. Antig. 454 *οὐ γὰρ σθένειν τοσοῦτον ᾠόμην τὰ σὰ κηρύγμαθ' ὥστ' ἄγραπτα κἀσφαλῆ θεῶν νόμιμα δύνασθαι θνητὸν ὄνθ' ὑπερδραμεῖν.* There, as here, the unwritten law of natural affection is contrasted with human ordinances. Cf. *ἄγραφος νόμος* (And. 1 § 86), *ἄγραφοι νόμοι* (Plat. *Rep.* 563 D), *ἄγραφα νόμιμα* (Dem. 23 § 70; 18 § 275).

'*Intelligisne* (asks Cobet) *quae* sint *τὰ τῆς φύσεως οἰκεῖα opposita τοῖς νόμοις τοῖς γεγραμμένοις? Non opinor. Sed latet in οἰκεῖα vocabulum quo non est aliud apud Oratores tritius et frequentius, nempe τὰ τῆς φύσεως δίκαια ἀναιρεῖ, veluti in* Orat. xxv 28 *προφάσεις πλάττων καὶ ψευδεῖς αἰτίας συντιθεὶς τὰ κοινὰ δίκαια ἀνατρέψειν οἴει. Rectissime igitur componuntur τὰ τῆς φύσεως δίκαια et τὰ τῶν νόμων δίκαια, quae commemorat idem Orator* xxv 3 *μεθ' ἑαυτοῦ δείξων ἑκάτερος τὰ τῶν νόμων δίκαια'* (*Novae Lectiones* p. 619).—*τὰ τῆς φύσεως οἰκεῖα* may however be retained in spite of the above suggestion, and we may readily render it 'natural relationship' or better 'the home-ties of nature,' 'the natural ties of home affections.' Stephanus is denounced in § 65 as 'the common enemy of all human nature'; and in § 54, as neglecting *τὰ τῆς φύσεως ἀναγκαῖα*.

C. R. Kennedy (Introduction to this speech p. 45) observes, "To give wilfully false testimony against the plaintiff was an aggravation of his offence,... for the Athenians excused a man for being reluctant even to give true evidence against a relation." [The patriarchal system, descended from the old Aryan peoples, made the Greeks view all family ties as almost inviolable. With all their respect for 'written law,' the obligations of relationship had more of religious sanction. See Cox, *Hist. of Greece*, I. pp. 15—18. P.]

54. *ὁ τῆς ἐμῆς γυναικὸς πατὴρ*] i.e. Deinias, father of the Theomnestus who speaks the first 15 §§ of Or. 59 *κατὰ Νεαίρας*, when Apollodorus takes up the speech. Apollodorus, besides being brother-in-law to Theomnestus by marrying the sister of the latter, gave his own daughter in marriage to him (Or. 59 § 2).

1118 δὲ παῖδας τοὺς ἐκείνης[w] καὶ τοὺς ἐμοὺς ἀνεψιαδοῦς.
ἆρ' οὖν δοκεῖ ποτ' ἂν ὑμῖν οὗτος, εἴ τι δι' ἔνδειαν εἶδε
ποιούσας ὧν οὐ χρὴ τὰς αὑτοῦ συγγενεῖς, ὅπερ ἤδη
πολλοὶ πεποιήκασι, παρ' αὑτοῦ προῖκ' ἐπιδοὺς ἐκδοῦναι,
ὃς ὑπὲρ τοῦ μηδ' ἃ προσήκει κομίσασθαι
ταύτας τὰ ψευδῆ μαρτυρεῖν ἠθέλησε, καὶ περὶ πλείονος
ἐποιήσατο[x] τὸν Φορμίωνος πλοῦτον ἢ τὰ τῆς
συγγενείας ἀναγκαῖα; ἀλλὰ μὴν ὅτι ταῦτ' ἀληθῆ 55
λέγω, λαβέ[y] τὴν μαρτυρίαν τὴν Δεινίου κἀναγίγνωσκε,
καὶ κάλει Δεινίαν.

ΜΑΡΤΥΡΙΑ.

[z]Δεινίας Θεομνήστου Ἀθμονεὺς μαρτυρεῖ τὴν θυγατέρα

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[w] *prima manu* SQ, '*uxoris meae meique liberi sunt ἀνεψιαδοῖ τούτῳ*' (Bl.); ἐκείνου *vulgo*.

[x] ποιήσασθαι? *propter syllabas breves* Bl. *coll.* 23 § 130.

[y] Z *et* Bl. *cum* S; λαβέ μοι Bekker, Dind.

[z–z] *om.* S.

ἀνεψιαδοῦς] Hesych. ἀνεψιαδοῦς· ἐκ τοῦ ἀνεψιοῦ γεγονώς, ἢ τῆς ἀνεψιᾶς, second cousins. The form of the word follows the analogy of λυκιδεὺς, κυναδεὺς, ἀδελφιδοῦς, θυγατριδοῦς, ἀλωπεκιδεὺς, the terminations in -ιδεὺς, -ιδέος, -αδεὺς, -αδέος (οῦς) being a kind of patronymic form. P.] See Dict. Ant. s. v. *Heres*.

πολλοὶ πεποιήκασι κ.τ.λ.] Instances of such generosity are given in the passages quoted from Dem. in the note on § 35, *supra*, where instead of ἐπιδοῦναι προῖκα the rather less common phrase προσθεῖναι προῖκα is used.

τὰ τῆς συγγενείας ἀναγκαῖα] 'The strong ties of kindred.' Cf. *necessitudo*. Fals. Leg. § 290 ὑπὲρ συγγενῶν καὶ ἀναγκαίων. Cf. Or. 36 § 30 ἀνάγκῃ...οἰκεῖον.

55. Δεινίας Θεομνήστου Ἀθμονεὺς] The father's name is very likely to be right, as Deinias had a son named Theomnestus (Or. 59 §§ 2 and 16) and the grandson very often bore the same name as the grandfather (note on Or. 39 § 27). But of the numerous persons named Deinias or Theomnestus, not one is described in any inscription as Ἀθμονεὺς, and the ascription of the witness to the *deme* in question is perhaps due to the invention of the composer of the document.

It is clear that Deinias, on being called, refused to swear to the deposition read aloud to him, οὐδὲ τἀληθῆ μαρτυρεῖν ἐθέλει. The deposition ought therefore to be followed by the word ἐξωμοσία as in § 60. (A. Westermann, *u. s.* pp. 109—111.) Cf. Or. 49 § 20.

Apollodorus, be it observed,

<τὴν>[a] αὐτοῦ ἐκδοῦναι Ἀπολλοδώρῳ κατὰ τοὺς νόμους γυναῖκα ἔχειν, καὶ μηδεπώποτε παραγενέσθαι μηδὲ αἰσθέσθαι, ὅτι Ἀπολλόδωρος ἀφῆκε τῶν ἐγκλημάτων ἁπάντων Φορμίωνα.[z]

56 Ὅμοιός γ᾽ ὁ Δεινίας ὦ ἄνδρες δικασταὶ τούτῳ ὃς ὑπὲρ τῆς θυγατρὸς καὶ τῶν θυγατριδῶν καὶ ἐμοῦ τοῦ κηδεστοῦ διὰ τὴν συγγένειαν οὐδὲ τἀληθῆ μαρτυρεῖν ἐθέλει κατὰ τούτου. ἀλλ᾽ οὐχ οὑτοσὶ Στέφανος, οὐκ ὤκνησε καθ᾽ ἡμῶν τὰ ψευδῆ μαρτυρεῖν, οὐδ᾽, εἰ μηδένα τῶν ἄλλων, τὴν αὑτοῦ μητέρα ᾐσχύνθη τοῖς ἀπ᾽ ἐκείνης οἰκείοις τῆς ἐσχάτης ἐνδείας αἴτιος γενόμενος.

57 Ὃ τοίνυν ἔπαθον δεινότατον καὶ ἐφ᾽ ᾧ μάλιστ᾽

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[a] *aut* τὴν *addendum aut* αὐτοῦ *delendum putat* Bl.

assumes that the reason why Deinias refuses to swear to the deposition is that it would be to the detriment of his kinsman Stephanus; but the disclaimer may really have been due to Deinias being aware that the evidence was false. As the document before us is untrustworthy, we cannot tell what the proposed evidence really was,—possibly something referring to Pasion's will (as suggested by Westermann *u. s.*) or rather something to the detriment of Stephanus' character, e.g. his bad behaviour to Apollodorus and his family, or his receiving bribes from Phormion to give false evidence against the plaintiff. (Lortzing, *Apoll.* p. 80.)

56. ὁμοιός γε] Or. 24 (Timocr.) § 106 ὁμοιός γε, οὐ γάρ; Σόλων νομοθέτης καὶ Τιμοκράτης, ib. 181 and Or. 22 (Androt.) § 73 ὁμοιόν γε, οὐ γάρ; also 18 § 136; 36 § 56.

ἀλλ᾽—οὐκ ὤκνησε] 25 § 51 ἀλλ᾽ οὐχ οὗτος οὐδέν, οὐδ᾽ ἂν ἔχοι δεῖξαι, 9 § 31 ἀλλ᾽ οὐχ ὑπὲρ Φιλίππου ... οὐχ οὕτως ἔχουσιν. Elsewhere we have the ἀλλὰ repeated, e.g. Or. 21 (Midias) § 200 ἀλλ᾽ οὐ Μειδίας, ἀλλ᾽ ἀπὸ τῆς ἡμέρας ταύτης λέγει κ.τ.λ. and Or. 23 (Aristocr.) § 89 ἀλλ᾽ οὐκ Ἀριστοκράτης, ἀλλὰ προπηλακίζει μὲν κ.τ.λ. Passages like these led Dobree to say, '*malim* ἀλλ᾽ οὐκ ὤκνησε,' but either construction is allowable.—οὐδ᾽ εἰ μηδένα τῶν ἄλλων, sc. ᾐσχύνθη. If he had no respect for any one else, he might at least have respected (had some regard for) his own mother and her relations.

§§ 57—62. *I must tell the jury, by the way, of an atrocious trick which was played me to my great disadvantage in the former action. At the trial itself, the deposition on which I mainly relied proved to be missing. I have since learnt that it was stolen by Stephanus while the suit was still before the arbitrator.*

ἐξεπλάγην ὅτ' ἠγωνιζόμην ὦ ἄνδρες δικασταί, τοῦθ'
ὑμῖν εἰπεῖν βούλομαι· τήν τε γὰρ τούτου πονηρίαν
ἔτι μᾶλλον ὑμεῖς ὄψεσθε, καὶ ἐγὼ τῶν γεγενημένων
ἀποδυράμενος τὰ πλεῖστα πρὸς ὑμᾶς ὡσπερεὶ ῥᾴων
1119 ἔσομαι. τὴν γὰρ μαρτυρίαν, ἣν ᾤμην εἶναι καὶ δι' ἧς
ἦν ὁ πλεῖστος ἔλεγχός μοι, ταύτην οὐχ εὗρον ἐνοῦσαν
ἐν τῷ ἐχίνῳ. τότε μὲν δὴ τῷ κακῷ πληγεὶς οὐδὲν ἄλλ' 58
εἶχον [ποιῆσαι][b] πλὴν ὑπολαμβάνειν, τὴν ἀρχὴν ἠδι-
κηκέναι με καὶ τὸν ἐχῖνον κεκινηκέναι. νῦν δὲ ἀφ' ὧν

[b] '*secl.* ποιῆσαι, *quo sensus obscuratur*' Bl. *coll.* 19 § 47; 3 § 1; 29 § 11; 45 § 23.

I call witnesses to prove this: they take an oath of disclaimer.—I thought as much.—To prove they are perjured, I now produce a challenge (duly attested by witnesses) calling on Stephanus to allow his slave to be tortured as to the abstraction of the document; my witnesses depose he refused the challenge.

Now, do the jury suppose that one who thus perpetrated a theft without any personal provocation, would have had the slightest hesitation in giving false evidence in his own interests and at the special instance of another?

57. ἐξεπλάγην] The form -επλάγην is post-Homeric and is used in compounds with the sense '*strike with terror* or *amazement*' (Veitch *Gk. Vbs.* s. v. πλήσσω). For the *simple* verb, ἐπλήγην is used, as in the first line of the next section, but only in the sense of 'receiving a blow from.'

ἀποδυράμενος τὰ πλεῖστα πρὸς ὑμᾶς] 'by unburdening to you all that I can of my past sorrows.' Hdt. II 141 πρὸς τὤγαλμα ἀποδύρεσθαι οἷα κινδυνεύει παθέειν. Or. 55 § 24; 60 § 37; Plat. Rep. 606 A.

ῥᾴων ἔσομαι] 'I shall feel relieved' or (to translate it still more closely) 'I shall feel *easier*.' For this use of ῥᾴων (εὐθυμότερος, Hesychius), cf. Eur. Ion 875 στέρνων ἀπονησαμένη ῥᾴων ἔσομαι. Herc. Fur. 1407 φίλτρον τοῦτ' ἔχων ῥᾴων ἔσει.

58. τῷ κακῷ πληγείς, *malo percussus;* Hdt. I 41 συμφορῇ πεπληγμένον, Eur. Alc. 405 ξυμφορᾷ πεπλήγμεθα.

τὴν ἀρχὴν] 'the magistrate,' in whose possession the sealed casket of depositions was kept until the trial. Cf. notes on Or. 53 § 24 τὴν ἀρχὴν and on Or. 39 § 9 where ἀρχὴν, like *magistratus* in Latin and 'authorities' in English, is used of the holder of the office as well as of the office itself. '*Portentose Reiskius* τὴν Ἀρχίππην,' says Dobree,—Archippe having died eight or ten years before the suit against Phormion.

τὸν ἐχῖνον κεκινηκέναι] 'had tampered with the deposition case.' κινεῖν is similarly used elsewhere in the sense of 'meddling with unlawfully,' in Or. 22 Androt. § 71 and Or. 24 Timocr. § 179 χρήματα κινῶν ἱερά. Hdt. VI 134 κινεῖν τὰ ἀκίνητα.

*ὕστερον πέπυσμαι, πρὸς αὐτῷ τῷ διαιτητῇ Στέφανον
τουτονὶ ταύτην[c] ὑφῃρημένον εὑρίσκω, πρὸς μαρτυρίαν
τιν᾽, ἵν᾽ ἐξορκώσαιμ᾽, ἀναστάντος ἐμοῦ. καὶ ὅτι ταῦτ᾽
ἀληθῆ λέγω, πρῶτον μὲν ὑμῖν μαρτυρήσουσι τῶν
τούτοις παρόντων οἱ ἰδόντες. οὐ γὰρ ἐξομνύναι
59 θελήσειν αὐτοὺς οἴομαι[d]. ἐὰν δ᾽ ἄρα τοῦτο ποιήσωσ᾽
ὑπ᾽ ἀναιδείας, πρόκλησιν ὑμῖν ἀναγνώσεται, ἐξ ἧς
τούτους τ᾽ ἐπιορκοῦντας ἐπ᾽ αὐτοφώρῳ λήψεσθε, καὶ
τοῦτον ὁμοίως ὑφῃρημένον τὴν μαρτυρίαν εἴσεσθε.
καίτοι ὅστις ὦ ἄνδρες Ἀθηναῖοι κακῶν[e] ἀλλοτρίων*

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[c] *αὐτὴν propter hiatum mutavit* Bl.

[d] Z *cum* S (cf. § 51).

[e] *fortasse καὶ τῶν vel καὶ ἑκών. eadem quae ipse anno* 1875 *protuleram, postea eodem Aristophanis loco laudato protulit* G. Gebauer, *de argumenti ex contrario formis*, 1877, p. 8. *ἕνεκα τῶν ἀλλοτρίων* H. Richards. *κακιῶν ἕνεκα τῶν ἀλλοτρίων*? T. Nicklin.

ἵν᾽ ἐξορκώσαιμι] 'that I might put a witness on his oath,' sc. *τὸν μάρτυρα* implied in the preceding *μαρτυρίαν*. Or. 54 § 26 *τῶν παρόντων ἡμῖν* (sc. *μαρτύρων*) *καθ᾽ ἕνα οὑτωσὶ πρὸς τὸν λίθον ἄγοντες καὶ ἐξορκίζοντες*, 21 § 65, 52 § 28.

ἐξομνύναι] 'to take an oath of disclaimer.' Cf. Fals. Leg. § 176 *ἢ μαρτυρεῖν ἢ ἐξόμνυσθαι ἀναγκάσω. ἐὰν δ᾽ ἐξομνύωσιν, ἐπιορκοῦντας ἐξελέγξω παρ᾽ ὑμῖν φανερῶς.* Pollux: *ἐξωμοσία δέ, ὅταν τις ἢ πρεσβευτὴς αἱρεθεὶς ἢ ἐπ᾽ ἄλλην τινὰ δημοσίαν ὑπηρεσίαν, ἀρρωστεῖν ἢ ἀδυνατεῖν φάσκων ἐξομνύηται αὐτὸς ἢ δι᾽ ἑτέρου. ἐξώμνυντο δὲ καὶ οἱ κληθέντες μάρτυρες, εἰ φάσκοιεν μὴ ἐπίστασθαι ἐφ᾽ ἃ ἐκαλοῦντο.* Isaeus Or. 9 (Astyph.) § 18 *κάλει Ἱεροκλέα ἵνα ἐναντίον τούτων μαρτυρήσῃ ἢ ἐξομόσηται.* ΜΑΡΤΥΡΙΑ. *ἀκριβῶς μὲν ᾔδειν· τοῦ γὰρ αὐτοῦ ἀνδρός ἐστιν, ἃ μὲν οἶδεν, ἐξόμνυσθαι, τῶν δὲ μὴ γενομένων πίστιν ἐθέλειν ἐπιθεῖναι ἦ μὴν εἰδέναι γενόμενα.* Or. 29 § 20; Or. 58 (Theocrines) § 7; Or. 59 § 28. Meier and Schöm., p. 880 Lips.

59. *κακῶν ἀλλοτρίων κλέπτης κ.τ.λ.*] 'did not shrink from being set down as having stolen what stood in other people's way.' *κακῶν ἀλλοτρίων κλέπτης* is a very singular expression, 'a thief of other people's ills,' meaning (as some suppose) one who steals what is detrimental to other people's interests, in this case the *μαρτυρία*, which is a *κακὸν οἰκεῖον* to Phormion and a *κακὸν ἀλλότριον* to Stephanus. But Lambinus justly objects to the phrase, and Lortzing p. 91 rightly observes, *singulariter dicta sunt.* Reiske says '*Fur alienorum malorum* est Graecis ille qui mala, fraudes, scelera, clam, in occulto exsequitur et perficit, non sponte sua, sed iussu alieno'; and similarly C. R.

κλέπτης ὑπέμειν᾽ ὀνομασθῆναι, τί ἂν ἡγεῖσθε [ποιῆσαι
τοῦτον][f] ὑπὲρ αὐτοῦ[g]; λέγε τὴν μαρτυρίαν, εἶτα τὴν 60
πρόκλησιν ταύτην.

ΜΑΡΤΥΡΙΑ.

[h] Μαρτυροῦσι φίλοι εἶναι καὶ ἐπιτήδειοι Φορμίωνι, καὶ

[f] *secl.* Bl. *coll.* § 58.

[g] τοῦτον ἄλλου του Z *cum* FSQ; ὑπὲρ ἄλλου του Voemel. τοῦτον ὑπὲρ αὐτοῦ Bekker *cum* γρ. FQ. '*sensui satisfaceret* δεομένου *vel* αἰτοῦντός του. Cf. § 62.' Sauppe.

[h] *testimonium om.* S.

Kennedy (rather vaguely) renders it 'a person who would commit a theft as a tool of another.' G. H. Schaefer, who rightly doubts whether κακὰ ἀλλότρια can mean anything but *mala quae alius patitur*, proposes to read κακιῶν with the sense '*qui quid furatur, ut sceleribus alius accommodet.*' Another critic (Beels, *diatribe* p. 100) says: 'κακῶν ἀλλοτρίων κλέπτης *lepide vocatur Stephanus, qui in gratiam Phormionis et fortasse eius iussu, testimonium e capsula surripuerat.*' Blass takes κακῶν ἀλλοτρίων as a genitive of price. Lastly, Huettner observes: 'κακῶν ἀλλοτρίων κλέπτης *Stephanus dicitur, quod surrepto illo testimonio, quo Apollodori causa maxime nitebatur, Phormionis nequitiam dissimulavit et ne coargueretur impedivit* (κλέπτειν *occultare*, Soph. Aj. 1137; Dem. 29 § 5; Aesch. 3 § 142).' In Plato Rep. 346 E we have μηδένα ἐθέλειν ἑκόντα ἄρχειν καὶ τὰ ἀλλότρια κακὰ μεταχειρίζεσθαι ἀνορθοῦντα ('to handle and set right other people's disorders'); but neither this nor any other passage that I can find supports the sense usually assigned to the words before us.

It may therefore be worth while to suggest that κακῶν may be corrupt and should be altered into καὶ τῶν where καὶ emphasizes the *whole* clause τῶν ἀλλοτρίων κλέπτης ὑπέμεινεν ὀνομασθῆναι, and not τῶν ἀλλοτρίων only. [The latter construction would inappropriately import into the passage some of the humour of the lines in Aristoph. Ranae 610 εἶτ᾽ οὐχὶ δεινὰ ταῦτα, τύπτειν τουτονὶ κλέπτοντα, πρός τ᾽ ἀλλότρια 'isn't it a shame to beat this poor fellow (Xanthias) for stealing, and that too—another man's goods?' καὶ τῶν ἀλλοτρίων κλέπτης seems a highly probable emendation; nor is there any difficulty in καὶ referring to the general character of a κλέπτης τῶν ἀλλοτρίων. P.] Cf. also Or. 28 § 22 ἀλλὰ καὶ τἀλλότρια ἀποστερῶν ἀποδέδεικται.

Or again we may alter κακῶν into καὶ ἑκὼν, comparing § 62 where ὁ τὴν τοῦ κλέπτης φανῆναι (δόξαν) μὴ φυγὼν is parallel to ὃς ἃ μηδεὶς ἐκέλευεν ἐθελοντὴς (= ἑκὼν) πονηρὸς ἦν.

ἀλλοτρίων in any case is intended to point the contrast with ὑπὲρ αὐτοῦ in the second half of the sentence.

60. μαρτυροῦσι κ.τ.λ.] The

παρεῖναι πρὸς τῷ διαιτητῇ Τεισίᾳ, ὅτε ἦν ἀπόφασις τῆς διαίτης Ἀπολλοδώρῳ πρὸς Φορμίωνα, καὶ εἰδέναι τὴν μαρτυρίαν ὑφῃρημένον Στέφανον, ἥν αἰτιᾶται αὐτὸν Ἀπολλόδωρος ὑφελέσθαι.[h]

Ἢ μαρτυρεῖτ', ἢ ἐξομόσασθε.

ΕΞΩΜΟΣΙΑ.

61 *Οὐκ ἄδηλον ἦν ὦ ἄνδρες δικασταί, ὅτι τοῦτ' ἔμελλον ποιήσειν, προθύμως ἐξομεῖσθαι. ἵνα τοίνυν παραχρῆμ' ἐξελεγχθῶσ' ἐπιωρκηκότες, λαβέ μοι ταύτην τὴν μαρτυρίαν καὶ τὴν πρόκλησιν. ἀναγίγνωσκε.*

ΜΑΡΤΥΡΙΑ. ΠΡΟΚΛΗΣΙΣ[i]. 1120

[h] Μαρτυροῦσι παρεῖναι, ὅτε Ἀπολλόδωρος προὐκαλεῖτο Στέφανον παραδοῦναι τὸν παῖδα τὸν ἀκόλουθον εἰς βάσανον περὶ τῆς ὑφαιρέσεως τοῦ γραμματείου, καὶ γράμματα ἣν ἕτοιμος γράφειν Ἀπολλόδωρος, καθ' ὅ τι ἔσται ἡ βάσανος.

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[i] '*Dind. ante testimonium titulum* ΠΡΟΚΛΗΣΙΣ *sustulit, subiecit eundem post testimonium, quasi non huic inesset tota πρόκλησις. Alia res* Or. 59 §§ 123, 124' (Bl.).

composer of the present document and the next and of that in Or. 46 § 21 has not taken the trouble to invent any names for the witnesses. He describes them as 'friends of Phormion' to suggest a motive for their disclaiming cognisance of the alleged theft on the part of his witness Stephanus. The writer adds that it was 'on the *declaration* or *award* of the arbitrator between Phormion and Ap.' But so long as there were fresh witnesses being brought forward (as appears from § 58 *πρὸς μαρτυρίαν κ.τ.λ.*), the case was not ripe for the arbitrator's decision; so we must either suppose that the writer has made a mistake, or that at any rate he uses *ἀπόφασις* in a vague and general sense for the process of decision and its immediate antecedents. (A. Westermann, *u. s.* p. 111, 112; cf. Kirchner, p. 31; Schucht, p. 71.) —On *ἀπόφασις*, cf. Or. 54 § 27 ad fin. The word in this sense is from *ἀποφαίνω*, not from *ἀπόφημι*.

ἢ μαρτυρεῖτ'] Or. 59 § 28; 49 § 20.

61. *καθ' ὅ τι ἔσται ἡ βάσανος*] 'The terms of the torture.' Cf. Ar. Ran. 618—625 (α) *καὶ πῶς βασανίσω;* (β) *πάντα τρόπον κ.τ.λ.*... (α) *κἄν τι πηρώσω γέ σοι τὸν παῖδα τύπτων τἀργύριόν σοι κείσεται.* Antiphon vi (de Choreuta) § 23 *ὡμολόγουν πείσας τὸν δεσπότην παραδώσειν αὐτῷ βασανίζειν τρόπῳ ὁποίῳ βούλοιτο.*

ταῦτα δὲ προκαλουμένου Ἀπολλοδώρου, οὐκ ἐθελῆσαι παραδοῦναι Στέφανον, ἀλλ' ἀποκρίνασθαι Ἀπολλοδώρῳ δικάζεσθαι, εἰ βούλοιτο, εἴ τί φησιν ἀδικεῖσθαι ὑφ' ἑαυτοῦ.[h]

62 Τίς ἂν οὖν ὑπὲρ τοιαύτης αἰτίας ὦ ἄνδρες δικασταί, εἴπερ ἐπίστευεν αὑτῷ, οὐκ ἐδέξατο τὴν βάσανον; οὐκοῦν τῷ φεύγειν τὴν βάσανον ὑφῃρημένος ἐξελέγχεται. ἆρ' οὖν ἂν ὑμῖν αἰσχυνθῆναι δοκεῖ τὴν τοῦ τὰ ψευδῆ μαρτυρεῖν δόξαν, ὁ τὴν τοῦ κλέπτης φανῆναι μὴ φυγών; ἢ δεηθέντος ὀκνῆσαι τὰ ψευδῆ μαρτυρεῖν, ὃς ἃ μηδεὶς ἐκέλευ'[j] ἐθελοντὴς πονηρὸς ἦν;

63 Δικαίως τοίνυν ὦ ἄνδρες Ἀθηναῖοι τούτων ἁπάντων δοὺς ἂν[k] δίκην, πολὺ μᾶλλον ἂν εἰκότως διὰ τἆλλα κολασθείη παρ' ὑμῖν. σκοπεῖτε δέ, τὸν βίον ὃν βεβίωκεν ἐξετάζοντες· οὗτος γάρ, ἡνίκα μὲν συνέβαινεν εὐτυχεῖν Ἀριστολόχῳ τῷ τραπεζίτῃ, ἴσα βαίνων

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[j] ἐκέλευεν Bekker. ἐκέλευσεν Z *cum* S.

[k] *om*. Dind. *cum* S.

62. φεύγειν τὴν βάσανον] 29 §§ 12, 13; 30 § 27; 37 § 28.

τὴν τοῦ κλέπτης φανῆναι (δόξαν), 'the discredit of being *proved* a thief.' ('Who did not shrink from *becoming* a thief.' Kennedy.)

δεηθέντος] sc. τινός. See Kühner *Gk. Gr.* § 486 *A*, 2, p. 641 'on the gen. absol. without any substantive like ἀνθρώπων, πραγμάτων being expressed.'

§§ 63—67. *Examine the defendant's life and character, and you will find him cringing to and flattering the prosperous, only to desert them when they fall into destitution. For the present, he is the creature of Phormion; and, to compass his own ends, he is willing to do wrong to his own relations, regardless of the ill-repute he thus incurs. He deserves to be abhorred as the common enemy of all humanity. With all his wealth, he has never performed a single public service. Villains who are poor may have some allowance made them, for the exigencies of their position; villains who are rich can claim no excuse and therefore call for punishment at your hands.*

63. δοὺς ἂν] 19 § 27; 23 §§ 144, 151; 21 §§ 151, 202; 24 § 112; 18 § 94.

ἡνίκα συνέβαινεν εὐτυχεῖν Ἀριστολόχῳ] See Or. 36 § 50.—Note συνέβαινεν followed soon after by βαίνων.

ἴσα βαίνων ἐβάδιζεν ὑποπεπτωκὼς ἐκείνῳ] 'Walked in step with that person and cringed to him.' 'Cringed to him, as he walked beside him.' Harpocr. ἴσα βαίνων Πυθοκλεῖ· Δημοσθένης

ἐβάδιζ' ὑποπεπτωκὼς ἐκείνῳ, καὶ ταῦτ' ἴσασι πολλοὶ
64 τῶν ἐνθάδ' ὄντων ὑμῶν. ἐπειδὴ δ' ἀπώλετ' ἐκεῖνος καὶ
τῶν ὄντων ἐξέστη, οὐχ ἥκισθ' ὑπὸ τούτου καὶ τῶν
τοιούτων διαφορηθείς, τῷ μὲν υἱεῖ τῷ τούτου πολλῶν
πραγμάτων ὄντων οὐ παρέστη πώποτ' οὐδ' ἐβοήθησεν,
ἀλλ' Ἀπόληξις καὶ Σόλων καὶ πάντες ἄνθρωποι
μᾶλλον βοηθοῦσι· Φορμίωνα δὲ [πάλιν][1] ἑώρακεν[m],
καὶ τούτῳ γέγον' οἰκεῖος, ἐξ Ἀθηναίων ἁπάντων
τοῦτον ἐκλεξάμενος, καὶ ὑπὲρ τούτου πρεσβευτὴς μὲν 1121
ᾤχετ' εἰς Βυζάντιον πλέων, ἡνίκ' ἐκεῖνοι τὰ πλοῖα
τὰ τούτου κατέσχον, τὴν δὲ δίκην ἔλεγεν τὴν πρὸς

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[1] *propter syllabas breves secl.* Bl.

[m] ἑόρακε Dind.

ἐν τῷ κατ' Αἰσχίνου (Fals. Leg. § 315) *ἀντὶ τοῦ συνὼν ἀεὶ καὶ μηδὲ βραχὺ ἀφιστάμενος· καὶ ἐν τῷ κατὰ Στεφάνου α' φησὶν* ''*Ἀριστολόχῳ τῷ τραπεζίτῃ ἴσα βαίνων ἐβάδιζε.*' *Μένανδρος· παρ' αὐτὸν ἴσα βαίνουσ' ἑταίρα πολυτελής.* (*Ἀριστολόχῳ* really comes after *συνέβαινεν* and is understood after *ἴσα βαίνων*.) Shilleto *u. s.* explains it here as 'truckling to, and adapting his pace to his companion's.' The phrase became common in later Greek, e.g. Alciphron Ep. III 56 *ἐπαίρεις σεαυτόν, οὐδὲν δέον, καὶ βαδίζεις ἴσα δὴ* [*καὶ τύφου πλήρης εἶ*], *τοῦτο δὴ τοῦ λόγου, Πυθοκλεῖ.* See note on § 68.

ὑποπεπτωκὼς] inf. 65; Or. 59 (Neaer.) § 43 *ὑπέπεσε Καλλιστράτῳ*, Isaeus Or. 6 § 29 *ὑποπεπτωκότες οἵδε τῇ ἀνθρώπῳ.* Aesch. 3 § 116, Arist. Eq. 47.

64. *ἀπώλετ'*] 36 § 51.

τῶν ὄντων ἐξέστη] Or. 36 § 50 *ἐξέστησαν ἁπάντων τῶν ὄντων*, 37 § 49; 33 § 25.

διαφορηθεὶς] In pass. generally of things, here of the *person*, plundered. Plat. Leg. 672 B; *διαφορεῖν τι*, 27 § 29; 19 § 315; 57 § 65.

πραγμάτων] 'lawsuits.'

Ἀπόληξις] Harpocr. *εἷς τῶν ι' συγγραφέων, ὃν Πλάτων κωμῳδεῖ ἐν Σοφισταῖς* (for *ι'* the MSS have *ν'*, corrected by Cobet who explains it of the ten *συγγραφεῖς* in Thuc. VIII 67). *Ἀπόληξις Προσπάλτιος* occurs in Or. 43 *πρὸς Μακάρτατον*, as grandfather of Macartatus, and there are others of the same name in inscriptions. But *Ἀπόληξις* cannot be identified with any of the above; and of this Solon nothing is known.

ἑώρακεν] *respexit*, 'has had his eye upon,' i.e. has courted, 18 §§ 25, 32.

πρεσβευτὴς] 'Agent.' Or. 32 Zenoth. § 11 *πρεσβευτὴν ἐκ βουλῆς τινα λαμβάνομεν*... One who negotiates for another is named after a political custom 'an ambassador.'

ἐκεῖνοι] sc. *οἱ Βυζάντιοι*, implied from *Βυζάντιον*. See note on Isocr. Paneg. § 110 *φάσκοντες μὲν λακωνίζειν τἀναντία δ' ἐκείνοις ἐπιτηδεύοντες.*

Καλχηδονίους, τὰ ψευδῆ δ' ἐμοῦ φανερῶς οὕτω καταμε-
μαρτύρηκεν. εἶθ' ὃς εὐτυχούντων ἐστὶ κόλαξ, κἂν ἀτυ- 65
χῶσι, τῶν αὐτῶν τούτων προδότης, καὶ τῶν μὲν ἄλλων
πολιτῶν πολλῶν καὶ καλῶν κἀγαθῶν ὄντων μηδενὶ
μηδ' ἐξ ἴσου χρῆται, τοῖς δὲ τοιούτοις ἐθελοντὴς ὑπο-
πίπτει, καὶ μήτ' εἴ τινα τῶν οἰκείων ἀδικήσει, μήτ' εἰ
παρὰ τοῖς ἄλλοις φαύλην δόξαν ἕξει ταῦτα ποιῶν,
μήτ' ἄλλο μηδὲν σκοπεῖ, πλὴν ὅπως πλέον[n] ἕξει,
τοῦτον οὐ μισεῖν ὡς κοινὸν ἐχθρὸν τῆς φύσεως ὅλης
τῆς ἀνθρωπίνης προσήκει; ἔγωγ' ἂν φαίην. ταῦτα 66
μέντοι τὰ τοσαύτην ἔχοντ' αἰσχύνην ὦ ἄνδρες Ἀθη-
ναῖοι, ἐπὶ τῷ τὴν πόλιν φεύγειν καὶ τὰ ὄντ'[o] ἀποκρύπ-
τεσθαι προῄρηται πράττειν, ἵν' ἐργασίας ἀφανεῖς διὰ
τῆς τραπέζης ποιῆται καὶ μήτε χορηγῇ μήτε τριη-
ραρχῇ μήτ' ἄλλο μηδὲν ὧν προσήκει ποιῇ. καὶ
κατείργασται τοῦτο. τεκμήριον δέ· ἔχων γὰρ οὐσίαν
τοσαύτην ὥσθ' ἑκατὸν μνᾶς ἐπιδοῦναι τῇ θυγατρί, οὐδ'
ἡντινοῦν ἑώραται λῃτουργίαν[p] ὑφ' ὑμῶν λῃτουργῶν,

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[n] *τι πλέον syllabis brevibus* S (Dind.).

[o] Bekker. *χρήματα syllabis brevibus* S (Z).

[p] Bekker. *λειτουργίαν ἑώραται* Z *cum* F.

Καλχηδονίους] Phormion, it seems, must have been implicated in some mercantile suit with people at Calchedon (opposite Byzantium). The affair is not alluded to elsewhere.

65. καλῶν κἀγαθῶν] In good Greek always *two* words (neither καλὸς καὶ ἀγαθὸς nor καλοκἀγαθὸς) though the derivative is nevertheless καλοκἀγαθία. Cf. θεοῖς ἐχθρὸς and θεοισεχθρία. See note on Isocr. Paneg. § 78.

κοινὸν ἐχθρὸν τῆς φύσεως] § 53 τὰ τῆς φύσεως οἰκεῖα ἀναιρεῖ.

66. ἐπὶ τῷ τὴν πόλιν φεύγειν] 'With a view to escape the public service.' Kennedy. [Another singular expression. Such citizens were called διαδρασιπολῖται, Ar. Ran. 1014. P.]

ἀποκρύπτεσθαι] 28 § 3 οὐκ ἀποκρύπτεται τὴν οὐσίαν, ἀλλὰ χορηγεῖ καὶ τριηραρχεῖ, and § 24 ἀποκρύπτεσθαι μᾶλλον, in contrast to λῃτουργεῖν ἐθελήσειν.

ἐργασίας ἀφανεῖς] 'Sly (unreturned) profits.' Contrast § 30 ἃ πάντες ᾔδεσαν κ.τ.λ.

χορηγῇ...τριηραρχῇ] See note on Or. 36 § 39 ἐλῃτούργεις.—κατείργασται τοῦτο (middle) 'he has accomplished this object.' 19 § 300.

τεκμήριον δέ· ἔχων γὰρ] Madvig *Gk. Synt.* § 196 a, and note on Isocr. Paneg. § 87.

οὐδὲ τὴν ἐλαχίστην. καίτοι πόσῳ κάλλιον φιλοτιμούμενον ἐξετάζεσθαι καὶ προθυμούμενον εἰς ἃ δεῖ τῇ πόλει, ἢ κολακεύοντα καὶ τὰ ψευδῆ μαρτυροῦντα;
67 ἀλλ' ἐπὶ τῷ κερδαίνειν πᾶν ἂν οὗτος ποιήσειεν. καὶ μὴν ὦ ἄνδρες Ἀθηναῖοι μᾶλλον ἄξιον ὀργίλως ἔχειν τοῖς μετ' εὐπορίας πονηροῖς ἢ τοῖς μετ' ἐνδείας. τοῖς 1122
μὲν γὰρ ἡ τῆς χρείας ἀνάγκη[q] φέρει τινὰ συγγνώμην παρὰ τοῖς ἀνθρωπίνως λογιζομένοις· οἱ δ' ἐκ περιουσίας, ὥσπερ οὗτος, πονηροί, οὐδεμίαν πρόφασιν δικαίαν ἔχοιεν ἂν εἰπεῖν, ἀλλ' αἰσχροκερδείᾳ[r] καὶ πλεονεξίᾳ καὶ ὕβρει καὶ τῷ τὰς αὐτῶν συστάσεις κυριωτέρας

[q] τῆς ἀνάγκης χρεία S *et* Stobaeus.

[r] -ίᾳ S *prima manu* (Dind.).

ἐξετάζεσθαι] 'To be found in the pursuit of an honourable ambition for willing service to the state.' Or, shorter, 'to show oneself a man of public spirit.' Harpocr. ἀντὶ τοῦ ὁρᾶσθαι, Δημοσθένης κατὰ Στεφάνου. καὶ ἐν τῷ κατ' Ἀνδροτίωνος (§ 66) 'ἐξητάσθης' φησὶν ἀντὶ τοῦ ὤφθης, ἐωράθης. Cf. de Cor. §§ 115, 173, 197; 21 § 161; 22 § 66.

ἀλλ' ἐπὶ τῷ κ.τ.λ.] 'Unfortunately, the defendant is a person who will do anything to get money.' Kennedy.

67. ὀργίλως ἔχειν] 24 §§ 215, 211; 21 § 215; 59 § 37.

ἡ τῆς χρείας ἀνάγκη] ἡ ἀναγκαία χρεία· 23 § 148; 50 § 13; ἀνάγκη and χρεία are practically synonymous as in Hom. Il. 8, 57; Thuc. vi 68 § 4; Arist. Plut. 534. 'The pressure of their necessitous lot leads to some allowance being made for them in the eyes of those who view the case with human fellow-feeling.' Stobaeus (46, 72) has ἡ τῆς ἀνάγκης χρεία. He also has οὐδεμίαν δικαίαν πρόφασιν ἔχουσι, besides, for obvious reasons, omitting ὥσπερ οὗτος. The extract proceeds with the words πολλὰ δ' οὖν κακὰ πράγματα τοὺς ἐλευθέρους ἡ πενία βιάζεται ποιεῖν, ἐφ' οἷς ἂν ἐλεοῖντο δικαιότερον ἢ προσαπολλύοιντο, which do not appear in the present passage. They are really taken from Dem. Or. 57 (Eubulides) § 45, as Meineke might have noted in his edition of Stobaeus. For the copyist's patchwork δ' οὖν κακὰ πράγματα we should therefore restore δουλικὰ πράγματα from Demosthenes himself, and print the passage as a separate extract.

οὐδεμίαν πρόφασιν] 24 § 195 οὐδεμίαν γὰρ ἂν εἰπεῖν ἔχοις ἄλλην πρόφασιν...ἢ...αἰσχροκέρδειαν.

συστάσεις] 'plots,' 'conspiracies,' parties, political interests, *studia*, ἑταιρεῖαι. Or. 37 § 39 περιστήσας τοὺς μεθ' ἑαυτοῦ, τὸ ἐργαστήριον τῶν συνεστώτων. 18 § 297; 57 § 62. [Thuc. ii 21 § 2 κατὰ συστάσεις γενόμενοι. So also οἱ συνιστάμενοι in Ar. Lysistr. 577. P.] Cf. Or. 46 § 25.

τῶν νόμων ἀξιοῦν εἶναι ταῦτα φανήσονται πράττοντες. ὑμῖν δ' οὐδὲν τούτων συμφέρει, ἀλλὰ τὸν ἀσθενῆ παρὰ τοῦ πλουσίου δίκην, ἂν ἀδικῆται, δύνασθαι λαβεῖν. ἔσται δὲ τοῦτ', ἐὰν κολάζητε τοὺς φανερῶς οὕτως ἐξ εὐπορίας πονηρούς.

68 Οὐ τοίνυν οὐδ' ἃ πέπλασται καὶ βαδίζει παρὰ τοὺς τοίχους οὗτος[8] ἐσκυθρωπακώς, σωφροσύνης ἄν τις

ἐξ εὐπορίας πονηρούς] 'made bad by their wealth.' Kennedy is hardly correct here in rendering 'men who (for all their riches) are thus flagrantly dishonest.' It is not *in spite of*, but directly *from*, their large means that they become bad citizens. P.]

§§ 68—70. *His affected airs as he sullenly slinks along the sides of the streets, so far from showing a modest reserve, really indicate an unsociable character. All this solemn guise is purposely put on, to veil his real disposition, while it serves to repel the approaches of his fellow-men. He has never contributed to the needs of any one of all the citizens of Athens; but as a usurer, who counts his neighbours' needs his own good fortune, he has ejected relations of his from their homes, and shown himself ruthless in the exaction of interest from his debtors.*

68. *ἃ πέπλασται κ.τ.λ.*] explained by the contrast immediately after, *τοῖς ἁπλῶς ὡς πεφύκασι βαδίζουσι καὶ φαιδροῖς*. *ἃ πέπλασται καὶ βαδίζει* instead of *ἣν ἔχει πεπλασμένην ὄψιν καὶ τὸ σεμνὸν βάδισμα*, is a fresh instance (like *ὧν διεφθάρκει* in § 27) of the fondness of the Greeks for throwing into the verb what in other languages would be naturally expressed by a substantive.

ἐσκυθρωπακώς] Or. 54 § 34 *μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι καὶ λακωνίζειν φασί*... For this and similar words expressing sullen and morose demeanour the student should read the speech of Hercules in Eur. Alc. 773—802.

For a similar passage, showing how keenly the behaviour of persons walking in the streets was criticised at Athens, we may compare Or. 37 (Pant.) § 52 where the defendant anticipates that the plaintiff will bring up against him his fast walking and loud talking, and his constantly carrying a stick. After contrasting their respective characters he adds (§ 55) *τοιοῦτος ἐγὼ ὁ ταχὺ βαδίζων καὶ τοιοῦτος σὺ ὁ ἀτρέμας*. Again Plato, Charmid. p. 159 B, expressly mentions 'walking quietly in the streets' as a mark of *σωφροσύνη*. *σωφροσύνη τὸ κοσμίως πάντα πράττειν καὶ ἡσυχῇ ἔν τε ταῖς ὁδοῖς βαδίζειν καὶ διαλέγεσθαι.* Aristotle ascribes *κίνησις βραδεῖα* and *φωνὴ βαρεῖα* to his *μεγαλόψυχος* (Eth. IV 9 = 3), and Theophrastus characterises the 'Arrogant man' (*ὁ ὑπερήφανος*) as *δεινὸς*... *ἐν ταῖς ὁδοῖς πορευόμενος μὴ λαλεῖν τοῖς ἐντυγχάνουσι, κάτω κεκυφώς.*

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[8] *οὗτος, quod erat post βαδίζει, propter hiatum transposuit* Bl.

ἡγήσαιτ’ εἰκότως εἶναι σημεῖα, ἀλλὰ μισανθρωπίας.
ἐγὼ γάρ, ὅστις αὐτῷ μηδενὸς συμβεβηκότος δεινοῦ,
μηδὲ τῶν ἀναγκαίων σπανίζων, ἐν ταύτῃ τῇ σχέσει
διάγει τὸν βίον, τοῦτον ἡγοῦμαι συνεωρακέναι[t] καὶ
λελογίσθαι παρ’ αὐτῷ, ὅτι τοῖς μὲν ἁπλῶς, ὡς πεφύ-
κασι, βαδίζουσι καὶ φαιδροῖς, καὶ προσέλθοι τις ἂν
καὶ δεηθείη καὶ ἐπαγγείλειεν[u] οὐδὲν ὀκνῶν, τοῖς δὲ
πεπλασμένοις καὶ σκυθρωποῖς ὀκνήσειέν τις ἂν[v] προσ-
69 ελθεῖν πρῶτον. οὐδὲν οὖν ἄλλ’ ἢ πρόβλημα τοῦ
τρόπου τὸ σχῆμα τοῦτ’ ἔστι, καὶ τὸ τῆς διανοίας

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[t] -εορακέναι Dind. [u] H. Wolf (Reiske), ἀπ. *codices.*

[v] ὀκνήσει τις ἂν S, ὀκνήσειεν ἄν τις vulgo, ὀκνήσειέ τις ἄν Dind.

Cf. Alexis ap. Athen. I p. 21 § 38 ἓν γὰρ νομίζω τοῦτο τῶν ἀνελευθέρων εἶναι, τὸ βαδίζειν ἀρρύθμως ἐν ταῖς ὁδοῖς. Soph. fragm. 234 b ὡς νῦν τάχος στείχωμεν· οὐ γὰρ ἔσθ’ ὅπως σπουδῆς δικαίας μῶμος ἅψεταί ποτε. Alciphron I 34 § 1 ἐξ οὗ φιλοσοφεῖν ἐπενόησας, σεμνός τις ἐγένου καὶ τὰς ὀφρῦς ὑπὲρ τοὺς κροτάφους ἐπῆρας. εἶτα σχῆμα ἔχων καὶ βιβλίδιον μετὰ χεῖρας εἰς τὴν Ἀκαδημίαν σοβεῖς. Cf. supr. § 63 ἴσα βαίνων κ.τ.λ. and infr. § 77.

σχέσει] cf. τὸ σχῆμα inf. § 69; 19 § 251; Plat. Gorg. 511 E περιπατεῖ ἐν μετρίῳ σχήματι. [διάγειν ἐν σχέσει seems unlike Demosthenes. The same may be said of ποιεῖν ἀοίκητον, ‘to deprive of a home,’ § 70. P.]

ἁπλῶς] 37 § 43 ἁπλῶς καὶ ὡς πέφυκα ζῆν.

τοῖς...φαιδροῖς...προσέλθοι τις ἂν καὶ δεηθείη] The ‘Surly man’ (ὁ αὐθάδης) is characterised by Theophrastus as apt προσαγορευθεὶς μὴ ἀντιπροσειπεῖν, and the ‘Arrogant man’ as προσελθεῖν (to greet) πρότερος οὐδενὶ θελῆσαι. —φαιδροῖς, ‘cheerful,’ ‘*bright*’ (as we say).

δεηθείη καὶ ἐπαγγείλειεν] ‘prefer a request and make a promise (or proposal).’ The two words are correlative to one another like ‘asking and granting a favour.’ ἐπαγγείλειεν is due to H. Wolf. Dobree unnecessarily suggests ‘Quaere an potest = ἐπαγγείλαιτο, i.e. *opem peteret.*’ This would involve a needless repetition of the idea of δεηθείη. [Besides, ἐπαγγέλλεσθαι is rather ‘to make a profession of,’ ‘to propose that some one should accept your service’ in some matter. P.]

πεπλασμένοις καὶ σκυθρωποῖς] ‘Affected and sullen characters.’

69. πρόβλημα τοῦ τρόπου] ‘A cloak to mask his real character.’ Soph. Phil. 1008 οἵως μ’ ὑπῆλθες, ὥς μ’ ἐθηράσω λαβὼν πρόβλημα σαυτοῦ παῖδα τόνδ’ ἀγνῶτ’ ἐμοί. Cf. παραπέτασμα supr. § 19, also πρόσχημα in the sense of ‘an excuse,’ 5 § 6, Plat. Prot. 316 D. For προβάλλεσθαι, *praetendere*, cf. Thuc. I 37 § 4; II 87 § 3; III 63 § 2.

ἄγριον καὶ πικρὸν ἐνταῦθα δηλοῖ. σημεῖον δέ· τοσούτων γὰρ ὄντων τὸ πλῆθος Ἀθηναίων, πράττων πολὺ βέλτιον ἢ σὲ προσῆκον ἦν, τῷ πώποτ' εἰσήνεγκας, ἢ τίνι συμβέβλησαί πω, ἢ τίν' εὖ πεποίηκας[w]*; οὐδέν' ἂν εἰπεῖν ἔχοις· ἀλλὰ τοκίζων καὶ τὰς τῶν ἄλλων* 70
συμφορὰς καὶ χρείας εὐτυχήματα σαυτοῦ νομίζων, ἐξέβαλες μὲν τὸν σαυτοῦ θεῖον Νικίαν ἐκ τῆς πατρῴας
1123 *οἰκίας, ἀφῄρησαι δὲ τὴν σαυτοῦ πενθερὰν ταῦτ' ἀφ' ὧν ἔζη, ἀοίκητον δὲ τὸν Ἀρχεδήμου παῖδα τὸ σαυτοῦ*

[w] Bekker. *ἢ τίνα εὖ πεποίηκας om.* Z *cum* Σ.

ἐνταῦθα δηλοῖ] 'He shows herein the real rudeness and malignity of his temper,' § 70; 25 § 45; 54 § 14; 21 § 204; Plat. Grat. 394 E.

τῷ πώποτ' εἰσήνεγκας] 'to whose service did you ever contribute?' Cf. Or. 53 § 9 *ἔρανον αὐτῷ...εἰσοίσοιμι*.

συμβέβλησαι] 'to whom have you ever lent any aid?' (Kennedy). *συμβάλλεσθαι* (with perf. pass. used as mid.) is here used in a general sense of helping, as in Or. 21 (Mid.) § 133 *συμβαλουμένους τοῖς συμμάχοις*. Cf. 59 § 69 *εἰς ἔκδοσιν...τῇ θυγατρὶ συμβαλέσθαι*, followed by *εἰσενεγκεῖν εἰς τὴν ἔκδοσιν* (§ 70). It is used of 'contributing' ib. § 113 *προῖκα...συμβάλλεται*, Lys. 4 § 10 *τὸ ἥμισυ τοῦ ἀργυρίου συνεβαλόμην*. We have the active use in Or. 34 § 1 *συμβόλαια πολλοῖς συμβάλλοντες*.

70. *ἐξέβαλες*] 'ousted from his patrimony,' cf. Or. 36 § 49 *ἐκβαλεῖν*. The debtor in such a case would be said *ἐκπεσεῖν* or *ἐκστῆναι τῶν ὄντων*, ib. § 50. Or. 29 § 2 *λίαν ὠμῶς καὶ πικρῶς ὄντα συγγενῆ τοῦτον ἐκ τῆς οὐσίας ἁπάσης ἐκβέβληκα*.

θεῖον] his (maternal) uncle, not *patruum*. Reiske suggests that this Nicias may be identified with the person of that name in Or. 36 § 17 married to the sister of Apollodorus' wife. But the relationships that would thus result are rather complex (cf. *supra* §§ 54—56), and it seems simpler to suppose that there were two persons of that name in the same family.

ἀοίκητον] 'a homeless outcast.' The word is rare in this meaning, being generally used of an uninhabitable country ('*ἀοίκητος καὶ ἔρημος* Hdt. II 34, cf. v 10. So in Plat. Legg. 778 B, etc.' L and S). Unless we accept it in the sense of 'houseless,' it would be necessary either (as Reiske says) to alter *παῖδα* into *οἶκον* or to read *ἄοικον* (as G. H. Schaefer suspects). The latter word is found in this sense in Plato Symp. 203 D and elsewhere. In Lucian however (p. 727), the word *ἀοίκητος* is used as in the present passage: Gallus § 17 *περιέμενον ἀοίκητος ἑστώς, ἄχρι δὴ ὁ Μνήσαρχος ἐξειργάζετό μοι τὸν οἶκον*. (*Ἀλεκτρύων loquitur.*)

τὸ σαυτοῦ μέρος] '*quod ad te attinet.*' Fals. Leg. § 82 *οὕτω διέθηκας αὐτοὺς τὸ μέρος σύ*, ib. 103; 35 § 50 and 43 § 78 *τὸ*

μέρος πεποίηκας. οὐδεὶς δὲ πώποθ' οὕτω πικρῶς οὐδ' ὑπερήμερον εἰσέπραξεν ὡς σὺ τοὺς ὀφείλοντας τοὺς τόκους. εἶθ' ὃν ὁρᾶτ' ἐπὶ πάντων οὕτως ἄγριον καὶ μιαρόν, τοῦτον ὑμεῖς ἠδικηκότ' ἐπ' αὐτοφώρῳ λαβόντες οὐ τιμωρήσεσθε; δείν' ἄρ' ὦ ἄνδρες δικασταὶ ποιήσετε κοὐχὶ δίκαια.

71 *Ἄξιον τοίνυν ὦ ἄνδρες Ἀθηναῖοι καὶ Φορμίωνι τῷ παρασχομένῳ τουτονὶ νεμεσῆσαι τοῖς πεπραγμέ-*

τούτου μέρος. So also *τὸ σὸν μέρος* Soph. O. C. 1366.

ὑπερήμερον εἰσέπραξεν] 'levied judgment on a defaulter.' (Kennedy.) Dem. Or. 33 (Apat.) § 6. Or. 21 (Mid.) § 11 *τῶν τοὺς ὑπερημέρους εἰσπραττόντων*, and §§ 81, 89 *συνέβη δὲ ὑπερημέρῳ γενομένῳ λαθεῖν αὐτῷ διὰ τὸ ἀδικηθῆναι.* In Theophrastus the 'Penurious man' (*ὁ μικρολόγος*) is described as *δεινὸς ὑπερημερίαν πρᾶξαι καὶ τόκον τόκου ἀπαιτῆσαι.* Pollux: (speaking of debt) *ὁ οὐκ ἐκτίσας κατὰ προθεσμίαν ὑπερήμερος.* Harpocr. *ὑπερήμεροι οἱ δίκην ὀφλόντες ὁποιανοῦν καὶ τὰ ἐπιτίμια τοῖς ἑλοῦσι μὴ ἀποδιδόντες ἐν ταῖς τακταῖς προθεσμίαις...*

In the whole of this passage the speaker dexterously avails himself of the odium and unpopularity attending the trade of a money-lender at Athens. Cf. Or. 37 (Pant.) § 52 *μισοῦσιν Ἀθηναῖοι τοὺς δανείσαντας.* Thus, in the Epistles of Alciphron, borrowed doubtless in part from the later Attic Comedy, in a letter beginning *μέγα κακόν εἰσιν οἱ κατὰ τὴν πόλιν τοκογλύφοι*, the money-lender is described as *πρεσβύτην, ὀφθῆναι ῥικνόν, συνεσπακότα τὰς ὀφρῦς* (I 26), cf. *ib.* III 3 § 2 *ὁ Χρέμης ὁ κατεσκληκώς, ὁ κατεσπακὼς τὰς ὀφρῦς, ὁ ταυρηδὸν πάντας ὑποβλέπων.* In the same letter we have another banker, of whom no harm is said, called by the conventional name Pasion, doubtless taken from *our* Pasion.

εἶθ' ὃν κ.τ.λ.] 21 § 97; 23 § 174; 25 § 53; 39 § 12; 24 §§ 203, 205; 19 § 282. Cf. Midias § 97.

§§ 71—76. *Against Phormion, who produced the defendant as his witness, you have a right to be indignant for his effrontery and his ingratitude. When Phormion was for sale, instead of being bought by a cook, or what not, and learning his master's trade, he had the good fortune to come into the hands of my father, who taught him the business of a banker, and conferred on him many other benefits. Yet, with all his wealth, he is ungrateful enough to allow the founders of his fortunes to remain in poverty and distress. He has not scrupled to marry her, who was once his own master's wife, thus securing to himself a large marriage-portion, while he suffers my daughters to languish without a dowry and become poor old maids in their father's house. Meanwhile, he counts and calculates the amount of my money, and criticises me as narrowly as a master might his slave.*

71. *νεμεσῆσαι*] A poetic verb, rarely found in good Greek

νοις, τὴν ἀναίδειαν τοῦ τρόπου καὶ τὴν ἀχαριστίαν
ἰδόντας. οἶμαι γὰρ ἅπαντας ὑμᾶς εἰδέναι, ὅτι τοῦτον,
ἡνίκ' ὤνιος ἦν, εἰ συνέβη μάγειρον ἤ τινος ἄλλης
τέχνης δημιουργὸν πρίασθαι, τὴν τοῦ δεσπότου τέχνην
ἂν μαθὼν πόρρω τῶν νῦν παρόντων ἦν ἀγαθῶν. ἐπειδὴ 72
δ' ὁ πατὴρ ὁ ἡμέτερος τραπεζίτης ὢν ἐκτήσατ' αὐτὸν
καὶ γράμματ' ἐπαίδευσεν καὶ τὴν τέχνην ἐδίδαξε καὶ
χρημάτων ἐποίησε κύριον πολλῶν, εὐδαίμων γέγονεν,
τὴν τύχην, ᾗ πρὸς ἡμᾶς ἀφίκετ', ἀρχὴν λαβὼν πάσης
τῆς νῦν παρούσης εὐδαιμονίας. οὐκοῦν δεινὸν ὦ γῆ 73
καὶ θεοὶ καὶ πέρα δεινοῦ, τοὺς Ἕλληνα μὲν ἀντὶ βαρβάρου
ποιήσαντας, γνώριμον δ' ἀντ' ἀνδραπόδου,
τοσούτων δ'[x] ἀγαθῶν ἡγεμόνας, τούτους περιορᾶν ἐν
ταῖς ἐσχάταις ἀπορίαις ὄντας ἔχοντα καὶ πλουτοῦντα,
καὶ εἰς τοῦθ' ἥκειν ἀναιδείας, ὥσθ', ἧς παρ' ἡμῶν τύχης

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[x] *om.* S (Dind.).

prose. It occurs, however, in Or. 20 (Lept.) § 161 *τοιαῦτα... οἷς μηδεὶς ἂν νεμεσῆσαι*; twice in Plato, and also in Arist. Rhet. II 9. Here, as elsewhere, *νεμεσᾶν* is used in its regular sense of 'indignation at undeserved good fortune' (Arist. Eth. II 7 § 15 *ὁ νεμεσητικὸς λυπεῖται ἐπὶ τοῖς ἀναξίως εὖ πράττουσι*).

ἂν μαθὼν ... ἦν] *ἂν* belongs solely to *ἦν*, the principal verb of the apodosis, although it is placed immediately before the emphatic participle *μαθών*. 6 § 20. See Goodwin's *Moods and Tenses* § 42, 3 note 1; § 224 ed. 1889.

72. *τραπεζίτης ὢν*] The participial clause is here, as often, more emphatic than the principal verb *ἐκτήσατο*. 'Since my father, into whose hands he came, was a *banker*.'

73. *γνώριμον*] Kennedy renders this: 'a *friend* instead of a slave.' *γνώριμος* however is a weaker word than *φίλος*, though it is curiously placed after it by an anti-climax in Or. 18 (de Corona) § 284 *ξένος ἢ φίλος ἢ γνώριμος*. But in the present passage, the context leads us to prefer translating it: 'a *man of note* instead of a mere slave.' In 8 § 66 *γνώριμος* is contrasted with *ἀνώνυμος*.

τοσούτων ἀγαθῶν ἡγεμόνας] 'who had led him to, showed him the way to, so many social and political advantages.' *ἡγεμόνας*, *auctores*, 18 § 24; Xen. Cyr. I 5 § 12.

ἔχοντα καὶ πλουτοῦντα ad vim augendam copulantur; ἔχειν per se ipsum est divitem esse (Huettner).

ἀναιδείας] For the gen. cf. Or. 36 § 48 *εἰς τοῦθ' ἥκεις μανίας*. 19 § 72; 21 § 194; 27 §§ 24, 31; 21 § 62; 57 § 64; 33 §§ 15, 22; 59 § 72.

74 μετέσχε, ταύτης ἡμῖν μὴ τολμᾶν μεταδοῦναι. ἀλλ' αὐτὸς μὲν οὐκ ὤκνησε τὴν δέσποιναν γῆμαι, καὶ ἣ τὰ καταχύσματ' αὐτοῦ κατέχεεν τόθ' ἡνίκ' ἐωνήθη, ταύτῃ 1124 συνοικεῖ[y], οὐδὲ προῖκα πέντε τάλανθ' αὑτῷ γράψαι, χωρὶς ὧν οὔσης τῆς μητρὸς κυρίας οὗτος ἐγκρατὴς γέγονεν πολλῶν χρημάτων (τί γὰρ αὐτὸν οἴεσθ' εἰς τὰς διαθήκας ἐγγράψαι "καὶ τἄλλα, ὅσα ἐστίν, 'Αρ-"χίππῃ δίδωμι";) τὰς δ' ἡμετέρας θυγατέρας μελλούσας δι' ἔνδειαν ἀνεκδότους ἔνδον γηράσκειν περιορᾷ.

75 καὶ εἰ μὲν πένης οὗτος ἦν, ἡμεῖς δ' εὐποροῦντες ἐτυγχάνομεν, καὶ συνέβη τι παθεῖν, οἷα πόλλ', ἐμοί, οἱ παῖδες ἂν οἱ τούτου τῶν ἐμῶν θυγατέρων ἐπεδικάζοντο[z], οἱ τοῦ δούλου τῶν τοῦ δεσπότου· θεῖοι γάρ

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[y] S (Bl.). συνοικεῖν Dind.

[z] ἐδικάζοντο *vulgo et* Dind. ἐπεδικάζοντο *correctus* S, *quod etiam* Dobreo *placuerat.*

74. καταχύσματα] Harpocr. Δημοσθένης ἐν τῷ κατὰ Στεφάνου α'. ὅτι τῶν νεωνήτων οἱ δεσπόται τραγήματα κατέχεον· Ἀριστοφάνης Πλούτῳ δηλοῖ (Ar. Plut. 768 φέρε νῦν ἰοῦσ' εἴσω κομίσω καταχύσματα ὥσπερ νεωνήτοισιν ὀφθαλμοῖς ἐγώ). The sweetmeats, nuts, &c. were scattered over the newly-purchased slave and scrambled for by his fellow-servants. 'This was done, not on the slave's account, but for the sake of a good omen, as the Scholiast tells us.' Becker's *Charicles* III 33 (=p. 368 of Eng. abridg.). Hermann, *Privatalt.* § 12, 5, p. 82 Blümner; St John's *Manners and Customs of the Greeks*, III 27.

προῖκα πέντε κ.τ.λ.] § 28.

οὔσης κυρίας] He, as the husband, has got possession of property, as κύριος (or legal possessor) of her, as she was of the said property. P.] Meier and Schöm., p. 519 Lips.

θυγατέρας] Two daughters, one of whom was shortly afterwards married to Theomnestus, the prosecutor of Neaera (Or. 59 §§ 2, 8).

75. εἰ...συνέβη τι παθεῖν κ.τ.λ.] 'If, in the ordinary course of nature, anything had happened to me'; a common euphemism for death. Cf. 23 § 59 and note on Or. 54 § 25.

οἷα πόλλ'] 8 § 41 ἐάν ποτε συμβῇ τι πταῖσμα, ἃ πολλὰ γένοιτ' ἂν ἀνθρώπῳ.

ἐπεδικάζοντο] Or. 43 Macart. § 55 τῆς ἐπικλήρου ἐπιδικάζεσθαι and ἐπεδικαζόμην γένει ὢν ἐγγυτάτω. When there was no son to inherit the estate, the heiresses were bound to be married to their nearest relatives (not in the ascending line). The next of kin brought his claim before the chief Archon, whose duty it was ἐπιμελεῖσθαι τῶν ἐπικλήρων

εἰσιν αὐταῖς διὰ τὸ τὴν μητέρα τὴν ἐμὴν τοῦτον
λαβεῖν· ἐπειδὴ δ' ἀπόρως ἡμεῖς ἔχομεν, τηνικαῦτα
δ'[a] *οὐ συνεκδώσει ταύτας, ἀλλὰ λέγει καὶ λογίζεται*
τὸ πλῆθος ὧν ἐγὼ χρημάτων ἔχω. καὶ γὰρ τοῦτ' 76
ἀτοπώτατον πάντων. ὧν μὲν ἀπεστέρηκεν ἡμᾶς χρη-
μάτων, οὐδέπω καὶ τήμερον ἠθέλησεν ὑποσχεῖν τὸν
λόγον[b]*, ἀλλὰ μηδ'*[c] *εἰσαγωγίμους εἶναι τὰς δίκας*
παραγράφεται· ἃ δὲ τῶν πατρῴων ἐνειμάμην ἐγώ,
ταῦτα λογίζεται. καὶ τοὺς μὲν ἄλλους ἄν τις ἴδοι
τοὺς οἰκέτας ὑπὸ τῶν δεσποτῶν ἐξεταζομένους· οὗτος

(Or. 43 § 75), public notice was given of the claim, and if no one appeared to dispute it, the Archon adjudged the heiress to him (*ἐπεδίκασεν αὐτῷ τὴν ἐπίκληρον*). If another claimant appeared, a court was held to decide the suit, according to the Athenian law of consanguinity. Cases even occurred in which the suitor would get his wife taken off his hands to enable him to marry such an heiress (e.g. Or. 47 § 41). If the 'heiress' was poor, and the nearest relative did not choose to marry her, he was bound to give her a marriage-portion according to his own fortune (C. R. Kennedy, *Dict. Antiq.* s. v. *Epiclerus*). Or. 43 § 54 *lex*, *τῶν ἐπικλήρων ὅσαι θητικὸν τελοῦσιν, ἐὰν μὴ βούληται ἔχειν ὁ ἐγγύτατα γένους ἐκδιδότω ἐπιδοὺς κ.τ.λ.* (Cf. K. F. Hermann, *Public Antiq.* § 120, notes 6—12; *Privatalt.* § 64, notes 10 and 11 = *Rechtsalt.* p. 66 Thalheim, with Pollux III 33; and see Aristoph. Vesp. 583—7.)

θεῖοι] Phormion's sons being, like Apollodorus, sons of Archippe, would be 'uncles' to the daughters of their half-brother Apollodorus.—*ἡμεῖς* is emphatically contrasted with *εἰ πένης οὗτος ἦν* (*supra*), as *ὧν ἐγὼ ἔχω* inf. with the implied *ὧν οὗτος* (or *ὧν αὐτὸς*) *ἔχει*.

συνεκδώσει] 18 § 268; Lysias 19 § 59.

76. *ἐξεταζομένους*] 'scrutinised,' 'narrowly examined,' 'called to account,' 'taken to task' (§§ 80, 82; 2 § 27 *πικρῶς ἐξετάσαι*). Liddell and Scott refer to this passage, and explain it '*to question* by the torture,' comparing Polybius XV 27 § 7 (*φιλοτίμως ἐξετάσαι πᾶσαν προτιθέντα βάσανον*); but in view of the context it seems better to give it a general sense, though not to the exclusion of the special meaning above suggested. Besides, a reference to the passage in Polybius will show that the verb there refers not to the torture itself, but to the close examination *preceding* the torture. The torture

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[a] *addidit* Bl. *coll.* 20 § 80.

[b] Bekker. *τὸν λόγον om.* Z *cum* S.

[c] FQ (Bl.): *μὴ vulgo et* Dind.

δ' αὐτὸ[d] τοὐναντίον τὸν δεσπότην ὁ δοῦλος ἐξετάζει,
ὡς δῆτα πονηρὸν καὶ ἄσωτον ἐκ τούτων ἐπιδείξων.
77 ἐγὼ δ' ὦ ἄνδρες Ἀθηναῖοι τῆς μὲν ὄψεως τῇ φύσει
καὶ τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα, οὐ τῶν
εὐτυχῶς πεφυκότων ἐμαυτὸν κρίνω· ἐφ' οἷς γὰρ οὐδὲν
ὠφελούμενος λυπῶ τινας, ἔλαττον ἔχω πολλαχοῦ·

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[d] *αὐτὸ scripsit* Bl., *coll.* 21 §§ 120, 136. *αὖ vulgo et* Dind.

was only to be applied if the ἐξέτασις failed. [The verb is here used for ἐλεγχομένους τὴν οὐσίαν, 'having their property inquired into.' Slaves, in fact, had no property: but their masters might inquire if they had, rightly or wrongly, become possessed of anything, e.g. of means to purchase their liberty. 'To make an inventory of property' is ἐξετάζειν (Ar. Eccl. 729), or ἐξέτασιν ποιεῖσθαι, which is also a military term. P.]

§§ 77—80. *My aspect of countenance, my quickness of walk and my loudness of talk may not, perhaps, be in my favour; they are not my fault but my misfortune; they annoy other people and do me no good; and yet I can claim that I am moderate in my personal expenditure, and I thereby show that I lead a far more orderly life than Phormion and the like. Towards the state, I have performed public services in a most liberal manner, passing even beyond the requirements of the law, to express the gratitude due to Athens from one who owes his citizenship to her generous adoption of his father. Don't taunt me then, Phormion, with what is really to my credit, but prove, if you can, that I am guilty of immorality like your own. How* dare you *criticise another's life and character?*

77. τῆς ὄψεως τῇ φύσει κ.τ.λ.] These are datives of *respect*,—'in the matter of appearance,' &c. Kennedy wrongly construes with κρίνω, 'I judge by,' &c. P.]

τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα κ.τ.λ.] For the general sense, cf. Lysias 16 § 19 οὐκ ἄξιον ἀπ' ὄψεως...οὔτε φιλεῖν οὔτε μισεῖν οὐδένα, ἀλλ' ἐκ τῶν ἔργων σκοπεῖν· πολλοὶ μὲν γὰρ μικρὸν διαλεγόμενοι καὶ κοσμίως ἀμπεχόμενοι μεγάλων κακῶν αἴτιοι γεγόνασιν, ἕτεροι δὲ τῶν τοιούτων ἀμελοῦντες πολλὰ κἀγαθὰ ὑμᾶς εἰσιν εἰργασμένοι. Plut. Pericl. 5. See also note on § 68 and cf. particularly Or. 37 (Pant.) § 52 Νικόβουλος ἐπίφθονός ἐστι καὶ ταχέως βαδίζει καὶ μέγα φθέγγεται καὶ βακτηρίαν φορεῖ, and esp. § 55 where Nicobulus says of himself οὐχὶ λέληθα ἐμαυτόν, οὐδ' ἀγνοῶ οὐ τῶν εὖ πεφυκότων κατὰ ταῦτα ὢν ἀνθρώπων, οὐδὲ τῶν λυσιτελούντων ἑαυτοῖς. εἰ γὰρ ἐν οἷς μηδὲν ὠφελοῦμαι ποιῶν, λυπῶ τινάς, πῶς οὐκ ἀτυχῶ κατὰ τοῦτο τὸ μέρος; The parallel is so close that it lends some colour to the inference that the two speeches were written by the same orator, and that if Demosthenes wrote either, he probably wrote both. Cf. *Introd.* p. xlvi.

1125 τῷ μέντοι μέτριος κατὰ πάσας τὰς εἰς ἐμαυτὸν
δαπάνας εἶναι πολὺ τούτου καὶ τοιούτων ἑτέρων
εὐτακτότερον ζῶν ἂν φανείην. τὰ δ' εἰς τὴν πόλιν 78
καὶ ὅσ' εἰς ὑμᾶς, ὡς δύναμαι λαμπρόταθ', ὡς ὑμεῖς
σύνιστε, ποιῶ· οὐ γὰρ ἀγνοῶ τοῦθ', ὅτι τοῖς μὲν γένει
πολίταις ὑμῖν ἱκανόν [ἐστι][e] λῃτουργεῖν ὡς οἱ νόμοι
προστάττουσι, τοὺς δὲ ποιητοὺς ἡμᾶς, ὡς ἀποδιδόντας
χάριν, οὕτω προσήκει φαίνεσθαι λῃτουργοῦντας.
μὴ οὖν μοι ταῦτ' ὀνείδιζ' ἐφ' οἷς ἐπαίνου τύχοιμ' ἂν
δικαίως, ἀλλὰ τίν' ὦ Φορμίων τῶν πολιτῶν ἑταιρεῖν, 79
ὥσπερ σύ, μεμίσθωμαι; δεῖξον. τίνα τῆς πόλεως,
ἧς αὐτὸς ἠξιώθην, καὶ τῆς ἐν αὐτῇ παρρησίας ἀπεστέρηκα,
ὥσπερ σὺ τοῦτον ὃν κατῄσχυνας; τίνος γυναῖκα
διέφθαρκα, ὥσπερ σὺ πρὸς πολλαῖς ἄλλαις ταύτην,
ᾗ τὸ μνῆμ' ᾠκοδόμησ' ὁ θεοῖς ἐχθρὸς οὗτος πλησίον

[e] *propter syllabas breves antecedentes secl.* Bl.

τῷ μέντοι μέτριος — φανείην] This self-complacent assertion may be instructively compared with the passage in Or. 36 §§ 42 and 45, where the present plaintiff is charged with extravagance of expenditure and licentiousness of life.

78. τοὺς ποιητοὺς] Or. 53 § 18 (of Apollodorus) κατὰ ψήφισμα πολίτης (Hermann, *Political Antiquities* § 117).

79. ἑταιρεῖν μεμίσθωμαι] Aeschin. Timarch. § 13 τῷ παιδὶ... ὃς ἂν ἐκμισθωθῇ ἑταιρεῖν.

τῆς πόλεως ... παρρησίας ἀπεστέρηκα] νόμος γὰρ ἦν τὸν ἡταιρηκότα μὴ πολιτεύεσθαι *Argument* to Dem. Fals. Leg. p. 338. Or. 59 § 28. This forms the main point of the speech κατ' Ἀνδροτίωνος. See also Ar. Equit. 877. Aeschin. Timarch. §§ 19—32 (Hermann, *Privatalt.* § 29, 22 = p. 258 Blümner).

τὸ μνῆμ' ᾠκοδόμησ'... ἀνηλωκὼς πλέον ἢ τάλαντα δύο] The tendency to extravagant outlay on tombs was checked at Athens by a legal enactment referred to by Cicero, Legg. II 64 *post aliquanto propter has amplitudines sepulcrorum...lege sanctum est, ne quis sepulcrum faceret operosius quam quod decem homines effecerint triduo*, ib. 66. Cf. Plato, Legg. p. 959 D ἔστω δὴ νόμος οὗτος· τῷ μὲν δὴ τοῦ μεγίστου τιμήματος εἰς τὴν πᾶσαν ταφὴν ἀναλισκόμενα μὴ πλέον πέντε μνῶν κ.τ.λ. Plato even suggests that the tomb or barrow (χῶμα) should not take more than the work of five men for five days and that the inscription on the stêlê should not be more than four lines long, *ib.* p. 958 E.—Lysias Or. 32 § 21 εἰς τὸ μνῆμα

τοῦ τῆς δεσποίνης, ἀνηλωκὼς πλέον ἢ τάλαντα δύο;
καὶ οὐκ ᾐσθάνετο, ὅτι οὐχὶ τοῦ τάφου μνημεῖον ἔσται
τὸ οἰκοδόμημα τοιοῦτον ὄν, ἀλλὰ τῆς ἀδικίας ἧς τὸν
80 ἄνδρ' ἠδίκηκεν ἐκείνη διὰ τοῦτον. εἶτα τοιαῦτα ποιῶν
καὶ τηλικαύτας μαρτυρίας ἐξενηνοχὼς τῆς ὕβρεως
τῆς σεαυτοῦ[f] σύ, τὸν ἄλλου του βίον ἐξετάζειν
τολμᾷς; μεθ' ἡμέραν εἶ σὺ σώφρων, τὴν δὲ νύκτ'
ἐφ' οἷς θάνατος [ἡ][g] ζημία, ταῦτα ποιεῖς. πονηρὸς ὦ
ἄνδρες Ἀθηναῖοι πονηρὸς οὗτος ἄνωθεν ἐκ τοῦ Ἀνακείου
κἄδικος. σημεῖον δέ· εἰ γὰρ ἦν δίκαιος, πένης

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[f] σεαυτοῦ Bl. σαυτοῦ *vulgo*.

[g] *propter syllabas breves antecedentes secl.* Bl. '*ne locus quidem est articulo in re, quam omnino puniri nondum constabat;* cf. 39 § 12, 20 § 135.'

τοῦ πατρὸς οὐκ ἀναλώσας πέντε καὶ εἴκοσι μνᾶς ἐκ πεντακισχιλίων δραχμῶν, τὸ μὲν ἥμισυ αὑτῷ τίθησι τὸ δὲ τούτοις λελόγισται (cf. Becker, *Charicles* III 108 = p. 395 of Engl. Abridg.).

πλησίον τοῦ τῆς δεσποίνης] Archippe, his former master's wife. [τῆς ἀδικίας ἧς—ἠδίκηκεν. The genitive by attraction for the cognate accusative, ἀδικεῖν τινα (μεγάλην) ἀδικίαν. P.]

80. σύ] 19 § 313 ὦ κακὴ κεφαλὴ σύ, 21 § 135 ὦ μιαρὰ κεφαλὴ σύ (Blass). On ἐξετάζειν, cf. § 76.

μεθ' ἡμέραν...σώφρων, τὴν δὲ νύκτα...] Or. 54 § 34 μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι κ.τ.λ.

ἐφ' οἷς θάνατος ζημία] e.g. certain forms of ὕβρις (K. F. Hermann, *Privatalt.* § 61, 20 = *Rechtsalt.* p. 42⁴ Thalheim, where Lysias is quoted, τοὺς ὑβρίζειν δόξαντας ἔξεστιν ὑμῖν θανάτῳ ζημιοῦν).

§§ 80—82. *You are a rogue of old, Phormion, an arrant rogue. Had you been honest, you would have remained poor. As it is, after embezzling the sums under your control, you choose to regard them as an inherited patrimony! Yet, suppose I could have clapped your present property on your shoulders and arrested you summarily as a thief caught in the act, then, if you denied the theft, you would have been compelled to confess that you got it all from my father: you could not have got it elsewhere, for you were a barbarian when we bought you. And yet you ungratefully resisted a suit for the sums claimed from you on our part; you abused us, you criticised the antecedents of our family. Well, even if I am bound to think less of myself than of all the rest of my audience, I am at any rate bound to think more of myself than of Phormion; and Phormion, at least, is bound to think less of himself than of me. You may make us out what you please, but you yourself were a slave all the same.*

πονηρὸς...ἄνωθεν ἐκ τοῦ Ἀνακείου] A knave, an arrant knave

*ἂν ἦν τὰ τοῦ δεσπότου διοικήσας. νῦν δὲ τοσούτων
χρημάτων τὸ πλῆθος κύριος καταστάς, ὥστε τοσαῦτα
λαθεῖν ἀπ' αὐτῶν κλέψας ὅσα νῦν κέκτηται, οὐκ
ὀφείλειν ταῦτα, ἀλλὰ πατρῷ' ἔχειν ἡγεῖται. καίτοι* 81
πρὸς θεῶν, εἰ κλέπτην σ' ἀπῆγον ὡς ἐπ' αὐτοφώρῳ
1126 *[εἰληφώς]*[h], *τὴν οὐσίαν ἣν ἔχεις, εἴ πως οἷόν τ' ἦν,
ἐπιθείς σοι, εἶτά σ' ἠξίουν, εἰ μὴ φῄς ὑφῃρημένος
ταῦτ' ἔχειν, ἀναγαγεῖν*[i] *ὅθεν εἴληφας, εἰς τίν' ἂν αὔτ'
ἀνήγαγες; οὔτε γάρ σοι πατὴρ παρέδωκεν, οὔθ' εὗρες,
οὔτε λαβὼν ποθεν ἄλλοθεν ἦλθες ὡς ἡμᾶς· βάρβαρος
γὰρ ἐωνήθης. εἶθ' ᾧ δημοσίᾳ προσῆκεν ἐπὶ τοῖς*

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[h] *secl.* Bl. *coll.* Isae. 4 § 28.

[i] Bl. *ἀνάγειν vulgo.*

and a villain of old since he left the temple of Castor. Or. 18 § 242 *πονηρὸν ἄνδρες Ἀθηναῖοι πονηρὸν ὁ συκοφάντης.* *ἄνωθεν* is *a maioribus*, *πονηρὸς κἀκ πονηρῶν*, cf. Or. 58 § 17 *πονηρὸς ἐκ τριγονίας.* Or. 44 (Leochar.) § 5 *οὐδὲν ἂν ἔδει ἄνωθεν ἐξετάζειν τὸ γένος τὸ ἡμέτερον.* Cf. § 6; 21 §§ 77, 160; 59 § 74. The *Ἀνάκειον* is the temple of the *Dioscuri* or *Ἄνακες*, as they were called (Plut. Thes. 33, Cic. Nat. Deor. III § 53). It was one of the places where slaves were sold; *Διοσκούρων ἱερὸν, οὗ νῦν οἱ μισθοφοροῦντες δοῦλοι ἑστᾶσιν* (Bekker *Anecd.* 212). Harpocr. *ἀνακεῖον· ἀνάκτορον· Δημοσθένης ἐν τῷ κατὰ Στεφάνου. ἱερὸν τῶν Διοσκούρων.* Moeris, *ἄνακες καὶ ἀνάκιον Ἀττικῶς* (cf. *ἀνακεῖον* Thuc. VIII 93, Andoc. 1 § 45), *Διόσκοροι καὶ Διοσκορεῖον Ἑλληνικῶς.* Pollux I 37, *ἑορταὶ δὲ ἔντιμοι...Διοσκούρων Ἀθήνησιν Ἀνάκεια.* The temple stood S.E. of the market of the Cerameicus (E. Curtius, *Text der sieben Karten* p. 53; *Stadtgeschichte von Athen*, pp. xlvi, 82). It was probably some way up the northern slope of the Acropolis (cf. Lucian, *Piscator*, 42).

Cf. Seneca de constantia sapientis 13 *non moleste feram, si mihi non reddiderit nomen aliquis, ex his qui ad Castoris negotiantur, nequam mancipia ementes vendentesque, quorum tabernis pessimorum servorum areae refertae sunt.*

81. *κλέπτην σ' ἀπῆγον κ.τ.λ.*] See Or. 54 § 1 *τῇ τῶν λωποδυτῶν ἀπαγωγῇ* n.—*ἐπ' αὐτοφώρῳ*, *flagrante delicto.*

ἀναγαγεῖν] *ἀναφέρειν*, sc. *ἐκεῖσε ὅθεν* (or *εἰς τοῦτον ἀφ' οὗ*) *εἴληφας*, *demonstrare unde et qui facultates illas adeptus sis* (Reiske). 'Had I then required you to *name* the person from whom you got it, to whom should you have *referred* as the donor?' Kennedy.

οὔτε πατὴρ παρέδωκεν, οὔθ' εὗρες] Or. 36 § 43 *οὐδὲ γὰρ Πασίων ὁ σὸς πατὴρ ἐκτήσαθ' εὑρὼν οὐδὲ τοῦ πατρὸς αὐτῷ παραδόντος.*—*πατήρ*, here (as often) without the article.

βάρβαρος ἐωνήθης] Eur. Iph. Aul. 1400 *βαρβάρων Ἕλληνας ἄρχειν εἰκός, ἀλλ' οὐ βαρβάρους,*

εἰργασμένοις τεθνάναι, σύ, τὸ σῶμα σεσωκὼς καὶ
πόλιν ἐκ τῶν ἡμετέρων σαυτῷ κτησάμενος, καὶ παῖδας
ἀδελφοὺς τοῖς σεαυτοῦ δεσπόταις ἀξιωθεὶς ποιήσασθαι,
παρεγράψω μὴ εἰσαγώγιμον εἶναι τὴν δίκην
τῶν ἐγκαλουμένων χρημάτων ὑφ' ἡμῶν; εἶτα κακῶς
ἡμᾶς ἔλεγες, καὶ τὸν ἡμέτερον πατέρ' ἐξήταζες ὅστις
82 ἦν; ἐφ' οἷς τίς οὐκ ἂν ὦ ἄνδρες Ἀθηναῖοι χαλεπῶς
ἤνεγκεν; ἐγὼ γάρ, εἰ πάντων τῶν ἄλλων ὑμῶν ἔλαττον
προσήκει μοι φρονεῖν, τούτου γε μεῖζον, οἶμαι, καὶ
τούτῳ γ' εἰ μηδενὸς τῶν ἄλλων ἔλαττον, ἐμοῦ γ'
ἔλαττον· ὄντων γὰρ ἡμῶν τοιούτων, ὁποίους τινὰς ἂν
[καὶ][j] σὺ κατασκευάσῃς τῷ λόγῳ, σὺ δοῦλος ἦσθα.

83 Τάχα τοίνυν ἂν ἴσως καὶ τοῦτό τις αὐτῶν εἴποι,
ὡς ἀδελφὸς ὢν ἐμὸς Πασικλῆς οὐδὲν ἐγκαλεῖ τῶν αὐτῶν
τούτῳ πραγμάτων. ἐγὼ δ' ὦ ἄνδρες Ἀθηναῖοι
καὶ περὶ Πασικλέους, παραιτησάμενος καὶ δεηθεὶς
ὑμῶν συγγνώμην ἔχειν, εἰ προεληλυθὼς εἰς τοῦθ'

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[j] *secl.* Bl.

μῆτερ, Ἑλλήνων, τὸ μὲν γὰρ δοῦλον οἱ δ' ἐλεύθεροι, the first four words of which are quoted by Arist., Pol. I 2 § 4, with the comment ὡς ταὐτὸ φύσει βάρβαρον καὶ δοῦλον ὄν.

ἐπὶ τοῖς εἰργασμένοις] 'for what you have done,' Or. 21 (Mid.) § 105 φεύγειν ἐφ' αἵματι. Dem. 3 § 24 τὴν ἐπὶ τοῖς ἔργοις δόξαν.

τὸ σῶμα σεσωκὼς] 22 § 55 τοῖς μὲν δούλοις τὸ σῶμα τῶν ἀδικημάτων ἁπάντων ὑπεύθυνόν ἐστι, τοῖς δ' ἐλευθέροις, κἂν τὰ μέγιστ' ἀτυχῶσιν, τοῦτό γ' ἔνεστι σῶσαι.

ἐξήταζες] i.e. in Or. 36 §§ 43 and 48, ἐγένετο Πασίων Ἀρχεστράτου. On ἐξετάζειν, cf. § 76.

82. μεῖζον] sc. προσήκει φρονεῖν, which is also understood in both the next two clauses.

σὺ δοῦλος ἦσθα] Emphatically placed at the close of the passage.

§§ 83—84. *Oh, but my brother Pasicles takes no part with me in these claims against Phormion!*

As for Pasicles (*craving your forgiveness for being provoked into uttering what I am about to say*), *while I acknowledge him as my mother's son, yet, judging from his taking Phormion's side against me, I have my fears that his father was another. Say no more, then, of Pasicles! call him your son, Phormion, and not your master; my opponent* (*as he is bent upon it*)*—not my brother.*

83. τούτῳ. Depending on ἐγκαλεῖ, not on τῶν αὐτῶν.

ὥσθ' ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρισθεὶς[k] οὐ δύναμαι
κατασχεῖν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν
ἐδόκουν, ἐρῶ καὶ οὐ σιωπήσομαι. ἐγὼ γὰρ ὁμομήτριον 84
μὲν ἀδελφὸν ἐμαυτοῦ Πασικλέα νομίζω, ὁμοπάτριον
1127 δ' οὐκ οἶδα, δέδοικα μέντοι μὴ τῶν Φορμίωνος ἁμαρτημάτων
εἰς ἡμᾶς ἀρχὴ Πασικλῆς ᾖ. ὅταν γὰρ τῷ
δούλῳ συνδικῇ τὸν ἀδελφὸν ἀτιμῶν, καὶ παραπεπτωκὼς
θαυμάζῃ τούτους ὑφ' ὧν αὐτῷ θαυμάζεσθαι
προσῆκε, τίν' ἔχει δικαίαν ταῦθ' ὑποψίαν; ἄνελ' οὖν

ὑβρισθεὶς] This reading makes it necessary to take *ὥστε* with *οὐ δύναμαι κατασχεῖν* and at first sight leaves *εἰ* without a verb. To remove the supposed difficulty, Dobree proposed *ὑβρίσθαι*, placing *παραιτησάμενος—κατασχεῖν* in a parenthesis. But the emendation is at once unnecessary and inadequate, and we prefer accepting the arrangement suggested by Shilleto, who was the first to explain the manuscript reading correctly. *Interpunctionis egebat locus, non coniecturae.* The passage should run as follows: *ἐγὼ δ' ὦ ἄνδρες Ἀθηναῖοι καὶ περὶ Πασικλέους, (παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχειν, εἰ, προεληλυθὼς εἰς τοῦθ' ὥστε ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρισθεὶς οὐ δύναμαι κατασχεῖν, ἃ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν ἐδόκουν ἐρῶ καὶ οὐ σιωπήσομαι) ἐγὼ γὰρ...νομίζω.* '*γὰρ post parenthesin saepe fraudi fuit criticis*' (Fals. Leg. § 107 not. crit.).

[The passage is slightly *ἀνακόλουθον*, but it can hardly be doubted that we must construe *προεληλυθὼς εἰς τοῦθ' ὥστε—ὑβρισθεὶς οὐ δύναμαι κατασχεῖν*, 'having reached such a point that—I am unable to restrain (my feelings),' and *συγγνώμην ἔχειν (ἐμοὶ) εἰ——ἐρῶ καὶ οὐ σιωπήσομαι.* The *ἐγὼ δ'* at the beginning is resumed at *ἐγὼ γὰρ ὁμομήτριον.* There is no great difficulty in the passage; certainly it is not made clearer by any proposed alteration. He was going to say *ἐγὼ καὶ περὶ Πασικλέους—ἐρῶ*, but he lost himself, as it were, in the maze of the intervening clauses. P.]

84. *παραπεπτωκὼς*] 'Courting,' 'flattering.' As this verb does not seem to occur elsewhere in this sense, H. Wolf and Dobree would prefer *ὑποπεπτωκὼς* as in §§ 63, 65; but the text is supported by the MSS and by Harpocration, who says: *ἀντὶ τοῦ ὑποπεπτωκώς. Δημοσθένης ἐν τῷ κατὰ Στεφάνου.*—*παραπεπτωκὼς* implies subservience of a less abject and cringing form than *ὑποπεπτωκώς*, which would be too strong a word for this context. '*ὑποπίπτειν est ad pedes alicuius, παραπίπτειν ad latus alicuius succumbere*' (Lortzing, *Apoll.* p. 90).

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[k] Z *et* Bl. *cum libris coll.* 26 § 22, 10 § 40. *ὑβρίσθαι* Dobree (G. H. Schaefer, Dind.).

ἐκ μέσου μοι Πασικλέα, καὶ σὸς μὲν υἱὸς ἀντὶ δεσπότου καλείσθω, ἐμὸς δ' ἀντίδικος (βούλεται γὰρ) ἀντ' ἀδελφοῦ.

85 *Ἐγὼ δὲ τούτῳ μὲν χαίρειν λέγω, οὓς δ' ὁ πατήρ μοι παρέδωκε βοηθοὺς καὶ φίλους, εἰς τούτους ἥκω, εἰς ὑμᾶς ὦ ἄνδρες δικασταί. καὶ δέομαι καὶ ἀντιβολῶ καὶ ἱκετεύω, μὴ ὑπερίδητέ με καὶ τὰς θυγατέρας δι' ἔνδειαν τοῖς ἐμαυτοῦ δούλοις καὶ τοῖς τούτου κόλαξιν ἐπίχαρτον γενόμενον. οὑμὸς ὑμῖν πατὴρ χιλίας ἔδωκεν ἀσπίδας, καὶ πολλὰ χρήσιμον αὐτὸν παρέσχε, καὶ πέντε τριήρεις*[l] *ἐθελοντὴς ἐπιδοὺς καὶ παρ' αὐτοῦ πληρώσας ἐτριηράρχησε*[m] *τριηραρχίας. καὶ*

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[l] *secl.* Bl.

[m] *πέντε (ε') ante ἐτριηράρχησε iterari voluerat* Reiske; *post ἐτριηράρχησ-ε mavult* T. Nicklin.

Πασικλέα] The silence of Pasicles is a point brought against Apoll. in Or. 36 § 22. The insinuation in the text seems quite gratuitous, and its indelicacy forms a singular contrast to the plaintiff's affectation of reserve in referring to his mother in the earlier part of the speech (§ 3 and § 27).

§ 85. *Farewell, then, to my so-called brother; while I turn to my true friends, the jury, and appeal to them not to allow me to be laughed to scorn by my own servants and by those who cringe to them, like Stephanus.—My father was a great benefactor to the state, and it would hardly be creditable to yourselves that his son should suffer wrong.*

85. δέομαι ... ἀντιβολῶ ... ἱκετεύω] Cf. § 1.

τοῖς τούτου κόλαξιν] i.e. Stephanus and his friends (not excluding Pasicles).

ἐπίχαρτον] Thuc. III 67; Plat. Ep. 8, 356 B, *βαρβάροις ἐπίχαρτος γενόμενος* '*Demosthenes non dixit*' (Lortzing, *Apoll.* p. 91). ἐπιχαίρειν occurs in Dem. 9 § 61 and 21 § 134.

ἀσπίδας] The father, Pasion, had a shield manufactory, as we learn from Or. 36 § 4.

πολλὰ—παρέσχε] 36 § 49.

ἐπιδοὺς] Used of voluntary free gifts for state purposes (ἐπιδόσεις) opp. to εἰσφέρειν. See Wolf's *Leptines* p. 66, ed. Beatson, notes 109, 110; and Boeckh, *P. E.* Book IV, chap. 17, p. 759 Lamb. Or. 21 § 165 ἑκὼν ἐπιδοὺς τριήρη. The system of voluntary trierarchies began in 357 B.C.; cf. 18 § 99.

ἐτριηράρχησε τριηραρχίας] At first sight this is an exception to the usual idiom, whereby a cognate accusative is not used after a verb except with an adjective. Or. 28 § 3 χορηγεῖ καὶ τριηραρχεῖ καὶ τὰς ἄλλας λειτουργίας λειτουργεῖ. But the clause πέντε τριη-

ταῦτ', οὐκ ὀφείλειν ὑμᾶς νομίζων χάριν ἡμῖν, ὑπομιμνήσκω· ἡμεῖς γὰρ ὀφείλομεν ὑμῖν· ἀλλ' ἵνα μὴ λάθω τι παθὼν τούτων ἀνάξιον· οὐδὲ γὰρ ὑμῖν ἂν γένοιτο καλόν.

Πολλὰ δ' *ἔχων εἰπεῖν περὶ ὧν ὕβρισμαι, οὐχ* 86
ἱκανὸν [*ὂν*][n] *τὸ ὕδωρ ὁρῶ μοι. ὡς οὖν μάλιστ' ἂν*

[n] *propter syllabas breves secl.* Bl.

ρεῖς ἐθελοντὴς ἐπιδοὺς is virtually an adjectival phrase descriptive of the nature of the trierarchies. Thus, in English we do not say 'he fought a fight' by itself, but 'he has fought a good fight.' (See Mayor on *dicta dicere* and *servitutem serviunt* Cic. Phil. II § 42, where the absence of the adj. is explained by the sense of the acc. being *different* from that of the governing verb and therefore cognate in form alone.) '*Speciose Reiskius ε̄ ἐτριηράρχησε τριηραρχίας* i.e. *πέντε*' Dobree. Compare Antiphon 5 § 77 *καὶ χορηγίας ἐχορήγει καὶ τέλη κατετίθει*, Andoc. 1 § 73 *εὐθύνας ὦφλον ἄρξαντες ἀρχάς*, Dem. 18 § 114, 24 § 150. Kühner's *Gk. Gr.* II p. 265 n. 3, Lobeck's *Paralipomena* p. 501—538, and Rehdantz, *indices* s.v. *etymologica figura*, where it is shewn that this use of the cognate accusative is specially frequent in legal and constitutional phrases. On the trierarchal services of Apollodorus, see note on Or. 36 § 41.

§§ 86—end. *Time would not suffice to tell of all the outrages inflicted on me; but you may form some notion of their enormity if each one of you would just think of the slave he left at home and imagine himself treated by him as I have been treated by Phormion. Whatever satisfaction each of you would claim under such circumstances, you will allow* me *to have a right to* now, *and I therefore ask you, for the sake of the laws and of your solemn oaths, to establish a signal precedent by the punishment of the man who by his false evidence robbed me of that satisfaction. Remember all that you have heard on our side and meet my opponents' suggestions at every point. If they deny that they are responsible for* all *the details of their deposition, ask them 'What stands in the document?' 'Why did not Stephanus erase the clause?' If they say that a will has been deposed to by a guardian, by a ward, and by one who has it in his keeping; then ask these three witnesses 'What will?' 'what are its terms?' for not one of the three has gone so far as to attest the terms of the will, which are deposed to by the* other *witnesses (viz. by Stephanus and his friends). If they appeal to your compassion, remember that the victim of a wrong deserves more pity than those who are doomed to be punished; and that if you inflict that punishment, you will grant redress to myself, you will restrain my opponents from their abject adulation, and you will be giving a verdict which will be true to your solemn oath.*

86. *τὸ ὕδωρ*] Or. 54 § 36.

ἅπαντας ὑμᾶς ἡγοῦμαι γνῶναι τὴν ὑπερβολὴν ὧν
ἠδικήμεθ' ἡμεῖς, φράσω· εἰ σκέψαιτο πρὸς ἑαυτὸν
ἕκαστος ὑμῶν τίν' οἴκοι κατέλιπεν οἰκέτην, εἶθ' ὑπὸ
τούτου πεπονθόθ' ἑαυτὸν θείη ταῦθ' ἅπερ ἡμεῖς ὑπὸ
τούτου. μὴ γὰρ εἰ Σύρος ἢ Μάνης ἢ τίς ἕκαστος
ἐκείνων, οὗτος δὲ Φορμίων· ἀλλὰ τὸ πρᾶγμα ταὐτό·
δοῦλοι μὲν ἐκεῖνοι, δοῦλος δ' οὗτος ἦν, δεσπόται δ'
87 ὑμεῖς, δεσπότης δ' ἦν ἐγώ. ἣν τοίνυν ὑμῶν ἂν
ἕκαστος δίκην ἀξιώσειε λαβεῖν, ταύτην νομίζετε
κἀμοὶ προσήκειν νῦν· καὶ τὸν ἀφῃρημένον τῷ μαρτυρῆσαι
τὰ ψευδῆ, καὶ ὑπὲρ τῶν νόμων καὶ ὑπὲρ τῶν 1128
ὅρκων, οὓς ὀμωμοκότες δικάζετε, τιμωρήσασθε καὶ[o]
παράδειγμα ποιήσατε τοῖς ἄλλοις, μνημονεύοντες
πάνθ' ὅσ' ἀκηκόαθ' ἡμῶν, καὶ φυλάττοντες, ἐὰν
παράγειν ἐπιχειρῶσιν ὑμᾶς, πρὸς[p] ἕκαστον ἀπαντῶντες,
ἐὰν μὴ φῶσιν ἅπαντα μεμαρτυρηκέναι, "τί
"οὖν ἐν τῷ γραμματείῳ γέγραπται; τί οὖν οὐ τότ'
"ἀπηλείφου; τίς ἡ παρὰ τοῖς ἄρχουσιν ἀντιγραφή;"
88 ἐὰν μεμαρτυρηκέναι τὸν μὲν ἐπιτροπευθῆναι κατὰ
διαθήκας, τὸν δ' ἐπιτροπεῦσαι, τὸν δ' ἔχειν, ποίας;

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[o] *habet* S *a me collatus. om.* Z *et* Bekker st.

[p] πρὸς *codices* (Bl.); καὶ πρὸς *vulgo*.

μὴ γὰρ......] sc. σκέψηται, understood from σκέψαιτο in the previous sentence.

Σύρος ἢ Μάνης] Both common slave-names. Strabo VII p. 467 ἐξ ὧν γὰρ ἐκομίζετο ἢ τοῖς ἔθνεσιν ἐκείνοις ὁμωνύμους ἐκάλουν τοὺς οἰκέτας ὡς Λυδὸν καὶ Σύρον, ἢ τοῖς ἐπιπολάζουσιν ἐκεῖ ὀνόμασι προσηγόρευον, ὡς Μάνην (cf. Or. 53 § 20) ἢ Μίδαν τὸν Φρύγα, Τίβιον δὲ τὸν Παφλαγόνα (K. F. Hermann, *Privatalt.* § 13, 16 p. 92 Blümner). [Ar. Pax 1146, τόν τε Μανῆν ἡ Σύρα βωστρησάτω 'κ τοῦ χωρίου. P.]

87. τὸν ἀφῃρημένον] Him (i.e. Stephanus) who by false testimony has robbed me of it (i.e. of my right to a verdict, τὸ δίκην λαβεῖν).

μνημονεύοντες.....φυλάττοντες] Or. 36 § 61.

τί οὖν...γέγραπται] Cf. § 45. ἀπηλείφου, § 44. ἡ ἀντιγραφή, § 46.

τοῖς ἄρχουσιν] The Forty (Meier and Schöm., p. 697, 59, Lips.).

88. τὸν μὲν ἐπιτροπευθῆναι κ.τ.λ.] §§ 37, 38.

τὸν δ' ἔχειν] 'Has the docu-

ἐν αἷς τί γέγραπται; ταῦτ᾽ ἐρωτᾶτε· ἃς[q] γὰρ οὗτοι μεμαρτυρήκασιν, οὐδεὶς ἐκείνων προσμεμαρτύρηκεν. ἐὰν δ᾽ ὀδύρωνται, τὸν πεπονθότ᾽ ἐλεινότερον[r] τῶν δωσόντων δίκην ἡγεῖσθε. ταῦτα γὰρ ἂν ποιῆτ᾽, ἐμοί τε βοηθήσετε, καὶ τούτους τῆς[s] ἄγαν κολακείας ἐπισχήσετε, καὶ αὐτοὶ τὰ εὔορκ᾽ ἔσεσθ᾽ ἐψηφισμένοι.

[q] ἃς Bl. *coll.* § 12; ἃ *codices.*

[r] ed. Paulina (Bl.); *ἐλεεινότερον tribus brevibus continuatis vulgo.*

[s] *post Felicianum* Bekker. τὰς Z *cum* SQF.

ment in his custody,' i.e. the *γραμματεῖον* inscribed *διαθήκη Πασίωνος* § 16 *ὃ μὲν γραμματεῖον ἔχειν ἐφ᾽ ᾧ γεγράφθαι διαθήκη Πασίωνος.*

ἃς γὰρ] None of the witnesses corroborate one another; one group depose to one series of isolated facts; another to another.—*οὗτοι*, Stephanus and his supporters.—*ἐκείνων*, Pasicles and Nicocles.

ἐὰν ὀδύρωνται] Alluding to the pathetic appeals of the peroration. Cf. the *miserabiles epilogi* of Cicero and the *ἐλέου εἰσβολή* of the Greek Rhetoricians (Volkmann's *Rhetorik* § 27).

εὔορκα κ.τ.λ.] So in the former speech on the other side; Or. 36 § 61 *αὐτοὶ εὐορκήσετε.*

XLVI.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

ΥΠΟΘΕΣΙΣ.

Ἐν τούτῳ τῷ λόγῳ καὶ τῶν φθασάντων τινὰ ἐπικατασκευάζεται, καὶ ἕτερα προσεισάγεται[a], ὡς καὶ[b] παράνομοι αἱ διαθῆκαι[c].

Argumentum a manu recentiore in S *supra scriptum.*

[a] Wolf. *προεισ- vulgo.* [b] ὡς Z (Bl.); *εἰ codices.*

[c] *παράνομος ἡ μαρτυρία καὶ αἱ* (*a Bekkero additum*) *διαθῆκαι mavult* Bl.

1. 1. *τῶν φθασάντων τινὰ προσεισάγεται*] ‘The speaker establishes afresh some of the points of his former speech; and brings on other new points.’

φθάνειν in this sense is found only in late Greek, e.g. Argument to Or. 4 (Philippic) *τῷ φθάσαντι* (*λόγῳ*), and Aelian Var. Hist. I 34 *τὰ φθάσαντα*, ‘the matters before-mentioned.’ *ἐπικατασκευάζειν* (according to Sophocles' Lex. of late Greek) is found in Dio Cassius 50, 23, 3 (‘to construct on’) and Eusebius II 557 A (‘to prepare after’). It is here perhaps middle, and not passive.—*προσεισάγω* is found in Diogenes Laertius 9, 88 (quoted by Liddell and Scott, who take it as *middle* in the present passage).

§§ 1—3. *Stephanus has made a long reply to my former speech, and, as I suspected, has had a good deal to say in defence of his evidence. A cunning rogue himself, and well primed by Phormion's numerous advisers, he has attempted to mislead you into the notion that he is not responsible for all the details of his deposition. He has not brought a single witness to prove, either* (1) *that he was present when my father made the alleged will, or* (2) *that he ever saw it opened after my father's death; and yet he has actually deposed that the copy set forth in his deposition is a transcript of the ‘will.’ By so doing he is palpably convicted of having given false testimony.*

1129 Ὅτι μὲν οὐκ ἀπορήσειν ἔμελλε Στέφανος οὑτοσί, 1
ὅ τι ἀπολογήσεται περὶ τῆς μαρτυρίας, παράγων τῷ
λόγῳ, ὡς οὐ πάντα μεμαρτύρηκε τὰ ἐν τῷ γραμματείῳ
γεγραμμένα, καὶ ἐξαπατῶν ὑμᾶς, καὶ αὐτὸς σχεδόν τι
ὑπενόουν ὦ ἄνδρες δικασταί. πανοῦργός τε γάρ ἐστι,
καὶ οἱ γράφοντες καὶ οἱ συμβουλεύοντες ὑπὲρ Φορμίω-
νος πολλοί· ἅμα τ' εἰκός ἐστι τοὺς ἐγχειροῦντας τὰ
ψευδῆ μαρτυρεῖν, καὶ τὴν ἀπολογίαν εὐθέως ὑπὲρ αὐ-
τῶν μελετᾶν. ὅτι δ' ἐν τοσούτῳ λόγῳ οὐδαμοῦ μάρ- 2
τυρας παρέσχεθ' ὑμῖν ὡς ἢ διατιθεμένῳ τῷ πατρὶ τῷ
ἐμῷ παρεγένετό που αὐτὸς ταύτην τὴν διαθήκην, ὥστ'
εἰδέναι ταῦθ' ὅτι ἀντίγραφ' ἐστὶν ὧν ὁ πατήρ μου
διέθετο, ἢ ἀνοιχθὲν εἶδε τὸ γραμματεῖον ὅ φασι δια-
θέμενον ἐκεῖνον καταλιπεῖν, ταῦτα συμμέμνησθέ μοι.

1. παράγων—ὑπενόουν] Apollodorus had already, in his former speech, thrown out his suspicions that Stephanus would have recourse to this line of defence. See Or. 45 §§ 44 and 87.

οἱ γράφοντες...ὑπὲρ Φορμίωνος] e.g. Demosthenes himself.

τὴν ἀπολογίαν...μελετᾶν] 'prepared their defence.' μελετᾶν, like *meditari*, with which it is etymologically connected, is often used of 'rehearsing a part,' 'conning over a task,' 'practising for a performance.'

2. μάρτυρας ... ὡς ... παρεγένετο] The plaintiff objects that Stephanus could not attest to a document being a copy of Pasion's 'will,' as he calls no evidence to prove he was present when the will was made (cf. Or. 45 § 26). But even supposing he had been present, it would not follow that he was familiar with the terms, as even the witnesses to a will would not necessarily know its contents, or be able to attest to its correspondence with any document purporting to be a copy of the same. Cf. Isaeus Or. 4 (Nicostratus) § 13 τῶν διατιθεμένων οἱ πολλοὶ οὐδὲ λέγουσι τοῖς παραγινομένοις ὅ τι διατίθενται, ἀλλ' αὐτοῦ μόνου, τοῦ καταλιπεῖν διαθήκας, μάρτυρας παρίστανται, τοῦ δὲ συμβαίνοντός ἐστι καὶ γραμματεῖον ἀλλαγῆναι καὶ τἀναντία ταῖς τοῦ τεθνεῶτος διαθήκαις μεταγραφῆναι. οὐδὲν γὰρ μᾶλλον οἱ μάρτυρες εἴσονται εἰ ἐφ' αἷς ἐκλήθησαν διαθήκαις, αὗται ἀποφαίνονται (Becker, *Charicles*, Scene IX note 18).

The inelegance of the triple repetition διατιθεμένῳ...διέθετο.. διαθέμενον is considered open to criticism by A. Schaefer, *Dem. u. s. Zeit*, III 2, 187.

ἐκεῖνον] not αὐτὸν, either because it refers to a person deceased, or to distinguish τὸν πατέρα from the subject of the sentence, Στέφανος. P.]

συμμέμνησθε] A verb apparently never used elsewhere, except in late Greek.

3 ἀλλὰ μὴν ὁπότε μεμαρτύρηκεν ἀντίγραφ' εἶναι τῶν
διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματείῳ γε-
γραμμένα, τὰς δὲ διαθήκας μὴ ἔχει[d] ἐπιδεῖξαι μήθ' ὡς
ὁ πατὴρ διέθεθ' ἡμῶν, μήθ' ὡς αὐτὸς εἶδε παραγενό-
μενος αὐτὰς[e] διατιθεμένου τοῦ πατρός, πῶς οὐ περι-
φανῶς οὗτος ἐξελέγχεται τὰ ψευδῆ μεμαρτυρηκώς;

4 Εἰ τοίνυν πρόκλησίν φησιν εἶναι καὶ μὴ μαρτυ-
ρίαν, οὐκ ἀληθῆ λέγει· ἅπαντα γὰρ ὅσα παρέχονται
εἰς τὸ δικαστήριον προκαλούμενοι ἀλλήλους οἱ ἀντί- 1130
δικοι, διὰ μαρτυρίας παρέχονται. οὐ γὰρ ἂν εἰδείηθ'
ὑμεῖς εἴτ' ἐστιν ἀληθῆ εἴτε ψευδῆ ἅ φασιν ἑκάτεροι,
εἰ μή τις καὶ τοὺς μάρτυρας παρέχοιτο. ὅταν δὲ
παράσχηται, τούτοις πιστεύοντες ὑποδίκοις οὖσι,
ψηφίζεσθε ἐκ τῶν λεγομένων καὶ μαρτυρουμένων ἃ
5 ἂν ὑμῖν δοκῇ δίκαια εἶναι. βούλομαι τοίνυν καὶ τὴν
μαρτυρίαν ἐξελέγξαι, ὅτι οὐ πρόκλησίς ἐστι, καὶ[f] ὡς
ἔδει μαρτυρεῖν αὐτούς, εἴπερ ἐγίγνετο ἡ πρόκλησις,
ὡς οὐκ ἐγίγνετο. 'μαρτυροῦσι παρεῖναι πρὸς τῷ
διαιτητῇ Τεισίᾳ, ὅτε προὐκαλεῖτο Φορμίων Ἀπολλό-
δωρον ἀνοίγειν τὸ γραμματεῖον, ὃ παρεῖχεν Ἀμφίας

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[d] G. H. Schaefer, Z *et* Bekker (st. Leipzig ed.). ἔχειν Bekker 1824 *cum libris*.

[e] Z *cum Baitero* (Bl.). αὐταῖς Bekker *et* Dind. *cum libris*.

[f] καὶ <δεῖξαι> ὡς ἔδει *mavult* Bl.

3. ὁπότε] See the note on Or. 34 § 33 and cf. inf. § 9 ad fin.

§§ 4, 5. *If my opponent urges that he is responsible for a Challenge only and not for a deposition, then he is not speaking the truth. Every Challenge necessarily involves a deposition, and I shall shew that he has deposed to something more than a mere Challenge, and I shall also criticize the terms of his deposition.*

4. πρόκλησιν...μὴ μαρτυρίαν] Or. 45 § 43 προκλήσεώς ἐστιν ὑπεύθυνος, οὐχὶ μαρτυρίας. Stephanus disclaims responsibility for the deposition, but the plaintiff on his part insists that the deposition is inseparable from the Challenge, as no Challenge could be put in evidence at a trial unless attested by the deposition of a responsible witness.

ὁ Κηφισοφῶντος κηδεστής, Ἀπολλόδωρον δ' οὐκ ἐθέλειν ἀνοίγειν.' οὕτω μὲν ἂν μαρτυροῦντες ἐδόκουν ἀληθῆ μαρτυρεῖν· ἀντίγραφα δὲ τῶν διαθηκῶν τῶν Πασίωνος μαρτυρεῖν εἶναι τὰ ἐν τῷ γραμματείῳ ὃ[g] παρείχετο Φορμίων, μήτε παραγενομένους ἐκείνῳ διατιθεμένῳ, μήτ' εἰδότας εἰ διέθετο, πῶς οὐ περιφανῶς ἀναισχυντία[h] δοκεῖ ὑμῖν εἶναι;

Ἀλλὰ μὴν εἰ φησὶ Φορμίωνος λέγοντος πιστεύειν 6 ταῦτ' ἀληθῆ εἶναι, τοῦ αὐτοῦ ἀνδρός ἐστι πιστεύειν τε λέγοντι τούτῳ ταῦτα καὶ κελεύοντι μαρτυρεῖν. οἱ δέ γε νόμοι οὐ ταῦτα λέγουσιν, ἀλλ' ἃ ἂν[i] εἰδῇ τις καὶ οἷς ἂν παραγένηται πραττομένοις, ταῦτα μαρτυρεῖν κελεύουσιν ἐν[j] γραμματείῳ γεγραμμένα, ἵνα μήτ' ἀφελεῖν ἐξῇ μηδὲν μήτε προσθεῖναι τοῖς γεγραμμένοις. ἀκοὴν δ' οὐκ ἐῶσι ζῶντος μαρτυρεῖν, ἀλλὰ τεθνεῶτος, 7 τῶν δὲ ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν γεγραμ-

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[g] Reiske (Bl.); ἃ *vulgo.*

[h] '*Malim* περιφανοῦς ἀναισχυντίας.' Dobree.

[i] ἃ ἂν Bekker st. ἃν Z. ἂν *prima manu.*

[j] ἐν Bekker *cum* S *a me collato.* ἐν τῷ Z *cum* Q.

5. περιφανῶς] § 3; the corresponding substantive περιφάνεια has occurred in Or. 45 § 2.

§§ 6—8. *If Phormion's assertion was the defendant's only reason for deposing to the document being a copy of Pasion's will, then he has been guilty of giving hearsay evidence which is false and which he has given in a manner contrary to the law.*

7. ἀκοὴν...μαρτυρεῖν] 'to give hearsay evidence.' Or. 57 (Eubul.) § 4 οὐδὲ μαρτυρεῖν ἀκοὴν ἐῶσιν οἱ νόμοι, 44 (Leoch.) § 55. Isaeus Or. 6 (Philoctemon) § 54 (δίκαιον) οἷς μὴ παρεγένετο, ἀλλ' ἤκουσέ τις, ἀκοὴν μαρτυρεῖν, 8 (Kiron) §§ 6, 14, 29. Examples of this kind of evidence are found in Or. 43 (Macart.) §§ 36, 42, 44—46. Meier and Schömann, *Attische Process* p. 878 Lips.

τῶν ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν] The witness, whether he had been present at the preliminary examination or not, was compelled to attend at the trial itself to confirm his evidence, unless he was either ill or abroad, in which case his evidence might be taken by a commission. Or. 35 (Lacr.) §§ 20, 34. Isaeus Or. 3 (Pyrrhus) §§ 20—27, esp. § 20 παρὰ τῶν ἀσθενούντων ἢ ἀποδημεῖν μελλόντων ὅταν τις ἐκμαρτυρίαν

μένην ἐν τῷ[k] γραμματείῳ· καὶ ἀπὸ τῆς αὐτῆς ἐπισκή-
ψεως τήν τε μαρτυρίαν καὶ ἐκμαρτυρίαν ἀγωνίζεσθαι 1131
ἅμα, ἵν' ἐὰν μὲν ἀναδέχηται ὁ ἐκμαρτυρήσας, ἐκεῖνος
ὑπόδικος ᾖ τῶν ψευδομαρτυριῶν, ἐὰν δὲ μὴ ἀναδέχη-
8 ται, οἱ μαρτυρήσαντες[l] τὴν ἐκμαρτυρίαν. Στέφανος
τοίνυν οὑτοσί, οὔτ' εἰδὼς διαθήκας καταλιπόντα τὸν
πατέρα ἡμῶν, οὔτε παραγενόμενος πώποτε διατιθε-
μένῳ τῷ πατρὶ ἡμῶν[m], ἀκούσας δὲ Φορμίωνος, με-
μαρτύρηκεν ἀκοὴν τὰ ψευδῆ τε καὶ παρὰ τὸν νόμον.
καὶ ταῦθ' ὅτι ἀληθῆ λέγω, αὐτὸν ὑμῖν τὸν νόμον ἀνα-
γνώσεται.

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[k] *om.* Z *cum Reiskio.* τῷ, '*eo de quo iam* § 6 *dictum erat*' (Bl.).

[l] Z *et* Bekker st. *cum Reiskio.* ἐκμαρτυρήσαντες Bekker (Berlin ed.) *cum libris.*

[m] τῷ πατρὶ ἡμῶν *delere vult* Bl.

ποιῆται... Harpocration, ἐκμαρτυρία· διαφέρει τῆς μαρτυρίας, ὅτι ἡ μὲν μαρτυρία τῶν παρόντων ἐστίν, ἡ δ' ἐκμαρτυρία τῶν ἀπόντων. σαφέστατα δὲ περὶ τούτων διδάσκουσι Δημοσθένης τε ἐν τῷ κατὰ Στεφάνου καὶ Δείναρχος. Meier and Schömann, p. 879 Lips.

ἀπὸ τῆς αὐτῆς ἐπισκήψεως] The laws enact 'that the evidence of the absent witness shall come before the court under the same impeachment as that of the witnesses attesting the same, in order that, if the absent witness acknowledge his evidence, *he* may be liable to a trial for false testimony, and if he disown it, then the attesting witnesses.' For ἐπίσκηψις, the process of bringing an action for false witness, cf. Arist. Pol. II 12 § 11 Χαρώνδου ἴδιον οὐδέν ἐστι πλὴν αἱ δίκαι τῶν ψευδομαρτυριῶν, πρῶτος γὰρ ἐποίησε τὴν ἐπίσκηψιν. Or. 47 §§ 1 and 5 Θεόφημος αὐτοῖς ὡς ἀληθῆ μεμαρτυρηκόσιν οὐκ ἐπεσκήψατο οὐδ' ἐπεξέρχεται τῶν ψευδομαρτυριῶν, *ib.* 51. Or. 29 §§ 7, 41 and Or. 34 § 46 note. Cf. Meier and Schömann, p. 491 Lips.

ἐὰν μὴ ἀναδέχηται] 'if he does *not* acknowledge it' e.g. on the ground of its being forged or incorrectly copied. Isaeus Or. 3 §§ 23, 24 tells us 'it was usual to select persons of good character to receive such evidence and to have as many of them as possible' (C. R. Kennedy in Dict. Ant. s.v. ἐκμαρτυρία). Cf. Schol. on Aeschin. Fals. Leg. § 19 εἰ ἐπανελθὼν ἐκεῖνος (sc. ὁ ἐκμαρτυρήσας) εἶπεν, ὅτι οὐδὲν εἶπον, ἐκρίνοντο οὗτοι (sc. οἱ μαρτυρήσαντες) ὡς συκοφάνται.

ΝΟΜΟΣ.

Ἀκοὴν εἶναι μαρτυρεῖν τεθνεῶτος, ἐκμαρτυρίαν δὲ ὑπερορίου καὶ ἀδυνάτου[n].

9 Ὡς τοίνυν καὶ παρ' ἕτερον νόμον μεμαρτύρηκεν ἐπιδεῖξαι ὑμῖν βούλομαι, ἵνα εἰδῆτε ὅτι μεγάλων ἀδικημάτων οὐκ ἔχων καταφυγὴν ὁ Φορμίων, πρόφασιν λαβὼν λόγῳ τὴν πρόκλησιν, ἔργῳ αὐτὸς αὑτῷ μεμαρτύρηκε προστησάμενος τούτους, δι' ὧν οἱ μὲν δικασταὶ ἐξηπατήθησαν ὡς ἀληθῆ τούτων μαρτυρούντων, ἐγὼ δὲ ἀπεστερήθην [o]ὧν ὁ πατήρ μοι κατέλιπε[o] χρημάτων καὶ τοῦ δίκην λαβεῖν περὶ ὧν ἀδικοῦμαι. μαρτυρεῖν γὰρ οἱ νόμοι οὐκ ἐῶσιν αὐτὸν αὑτῷ οὔτ' ἐπὶ ταῖς γραφαῖς οὔτ' ἐπὶ ταῖς δίκαις οὔτ' ἐν ταῖς εὐθύναις. ὁ τοίνυν Φορμίων αὐτὸς αὑτῷ μεμαρτύρηκεν, ὁπότε

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[n] *leges et testimonia in hac or. om.* S; *uncis incl.* Dind., *quos removit* Bl.

[o–o] ὧν θ' ὁ πατὴρ κατέλιπε (μοι *fortasse per errorem omisso*) Dobree.

§§ 9, 10. *The defendant has also given evidence contrary to another law. Under cover of the testimony of the defendant and his friends, Phormion has virtually given evidence in his own cause, which is illegal; and the law declares that a suit for false testimony shall be maintainable against a person on the ground of his having given evidence contrary to the law.*

9. πρόφασιν λαβὼν τὴν πρόκλησιν] In Or. 45 § 19 (which should be compared with the whole of the present sentence) this Challenge is denounced as a παραπέτασμα. So below, προστησάμενος τούτους 'putting these men forward as an excuse.' For the favourite antithesis between λόγος and ἔργον, cf. Thucydides *passim*, and Antiphon, Or. 5 § 5 οὐ γὰρ δίκαιον οὔτε ἔργῳ ἁμαρτόντα διὰ ῥήματα σωθῆναι οὔτε ἔργῳ ὀρθῶς πράξαντα διὰ ῥήματα ἀπολέσθαι· τὸ μὲν γὰρ ῥῆμα τῆς γλώσσης ἁμάρτημά ἐστι τὸ δ' ἔργον τῆς γνώμης. Cf. *ib.* § 84 and Or. 6 § 47 οἱ μὲν ἄλλοι ἄνθρωποι τοῖς ἔργοις τοὺς λόγους ἐλέγχουσιν, οὗτοι δὲ τοῖς λόγοις τὰ ἔργα ζητοῦσιν ἄπιστα καθιστάναι. See also Blass *Att. Ber.* I 129^1, $213^1 = 141^2$, 218^2.

τούτων is redundant after δι' ὧν, that is, μαρτυρούντων might have agreed with ὧν, instead of a new clause introduced with a genitive absolute. [The latter was preferred from its tendency to combine with ὡς. P.]

γραφαῖς...δίκαις] See note on Or. 54 § 2.—εὐθύναις, 'audits,' 'examinations on surrendering office,' as opposed to δοκιμασία, 'the enquiry preliminary to taking office.'

φασὶν οὗτοι ἀκούσαντες ἐκείνου ταῦτα μεμαρτυρη-
10 *κέναι. ἵνα δὲ εἰδῆτε ἀκριβῶς, αὐτὸν τὸν νόμον μοι ἀνάγνωθι.*

ΝΟΜΟΣ.

Τοῖν ἀντιδίκοιν ἐπάναγκες εἶναι ἀποκρίνασθαι ἀλλήλοις τὸ ἐρωτώμενον, μαρτυρεῖν δὲ μή.

Σκέψασθε τοίνυν τουτονὶ τὸν νόμον, ὃς κελεύει ὑποδίκους εἶναι τῶν ψευδομαρτυριῶν καὶ κατ' αὐτὸ 1132 *τοῦτο, ὅτι μαρτυρεῖ παρὰ τὸν νόμον.*

ΝΟΜΟΣ.

Ἔστω δὲ καὶ ὑπόδικος τῶν ψευδομαρτυριῶν ὁ μαρτυρήσας αὐτοῦ τούτου[p], *ὅτι μαρτυρεῖ παρὰ τὸν νόμον· καὶ ὁ προβαλόμενος*[q] *κατὰ ταὐτά.*

11 *Ἔτι τοίνυν κἂν ἀπὸ τοῦ γραμματείου γνοίη τις, ἐν ᾧ ἡ μαρτυρία γέγραπται, ὅτι τὰ ψευδῆ μεμαρ-*

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[p] *'immo δι' αὐτοῦ τούτου vel αὐτῷ τούτῳ'* Z.

[q] Bekker *cum Reiskio.* *προβαλλόμενος* Z *cum libris.*

10. *τοῖν ἀντιδίκοιν—μή*] 'that both parties be compelled to answer one another's questions, but that neither be allowed to be a witness in his own cause.' On *ἐρώτησις* see Aristot. Rhet. III 18 and for examples cf. Lysias Or. 12 §§ 24—26, Or. 22 § 5; Or. 13 §§ 30—33. Dem. de Cor. § 52, Plato Apol. p. 25, Isaeus Or. 11 § 4. 'A favourite instrument of debate with speakers in the public assembly and law courts is the interrogation of the adversary. The object of this is to enforce an argument; or to take the adversary by surprise and extract from him an unguarded admission; or to place him in an awkward dilemma, by shaping your question in such a way, that he must either by avowing it admit something which his antagonist wishes to establish, or by refusing seem to give consent by his silence to that which the questioner wishes to insinuate; or to gain some similar advantage' (Cope's Introduction to Ar. Rhet. p. 362).

αὐτοῦ τούτου] = *κατ' αὐτὸ τοῦτο* above.

ὁ προβαλόμενος κατὰ ταὐτά] The person who produced the false witness, *προὐβάλετο* or *προὐστήσατο*, was liable to what was called a *δίκη κακοτεχνιῶν* for conspiring to defeat the ends of justice. Or. 47 § 1 *τὸν προβαλόμενον ὑπόδικον ἔχῃ τῶν κακοτεχνιῶν.*

§ 11. *That the defendant's evidence is false may be concluded from the material on which it is written.*

τύρηκεν. λελευκωμένον τε γάρ ἐστι καὶ οἴκοθεν κατεσκευασμένον. καίτοι τοὺς μὲν τὰ πεπραγμένα μαρτυροῦντας προσήκει οἴκοθεν τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν, τοὺς δὲ τὰς προκλήσεις μαρτυροῦντας, τοὺς ἀπὸ ταὐτομάτου προστάντας[r],

λελευκωμένον καὶ οἴκοθεν κατεσκευασμένον] The plaintiff curiously argues the falsehood of the defendant's deposition from the nature of the material on which it is inscribed. The document, he points out, is 'whitened, and must have been brought from home purposely prepared.' This would have been proper enough for a deposition attesting to the facts of the past, in which case there is time to draw up an elaborate document. But a deposition purporting to attest a Challenge (evidence to which might be given by any duly qualified person even accidentally present) would naturally be rapidly written on the spot *ἐν μάλθῃ*, i.e. on a waxen tablet. This would allow of any addition or erasure being made at the request of the witnesses before they attested it. 'The difference between these methods,' as C. R. Kennedy remarks, 'was much the same as between writing with a pen on paper and with a pencil on a slate' (Dict. Ant. s.v. *μαρτυρία*). The distinction here drawn is (as Mr Paley observes) between a waxed tablet (*δέλτος*) scratched with a point like the Roman *stilus*, and a whitened surface on which the letters could be conveniently laid on with black pigment (*μέλαν*).

For *λελευκωμένον* cf. Dem. Or. 24 (Timocr.) § 23 *Lex*, *ὁ τιθεὶς τὸν καινὸν νόμον, ἀναγράψας εἰς λεύκωμα, ἐκτιθέτω πρόσθε τῶν ἐπωνύμων*. Arist. *Const. of Athens*, 47 § 2, 48 § 4. Bekker's Anecd. p. 277 *λεύκωμά ἐστι πίναξ γύψῳ ἀληλιμμένος, πρὸς γραφὴν πολιτικῶν γραμμάτων ἐπιτήδειος* (we may compare the Roman *album* and contrast the *black boards* of our class-rooms).

For *ἐν μάλθῃ ib.* p. 278 *μάλθη· μεμαλαγμένος κηρὸς ἢ ἄλλο τι τοιοῦτον, ᾧ τὰ γραμματεῖα πράττεται.* Pollux x 58: *ὁ δὲ ἐνὼν τῇ πινακίδι* (sc. *καλεῖται*) *κηρὸς ἢ μάλθη ἢ μάλθα. Ἡρόδοτος μὲν γὰρ κηρὸν εἴρηκεν, Κρατῖνος δὲ ἐν τῇ Πυτίνῃ μάλθην ἔφη, Ἀριστοφάνης δὲ ἐν τῷ Γηρυτάδῃ 'τὴν μάλθαν ἐκ τῶν γραμματείων ἤσθιον.'* Harpocr. *μάλθη· ὁ μεμαλαγμένος κηρός· Δημοσθένης ἐν τῷ κατὰ Στεφάνου. Ἱππῶναξ, ἔπειτα μάλθῃ τὴν τρόπιν παραχρίσας.* And similarly Hesychius and Suidas. (Bekker's *Charicles*, Scene IX, notes 12 and 13, and Beels, *diatribe* p. 116—119.)

οἴκοθεν κατεσκευασμένον] a 'pregnant' expression, equivalent in sense to *οἴκοι κατεσκευασμένον καὶ οἴκοθεν ἀπηνεγμένον*. Similarly below, where Reiske unnecessarily proposes *οἴκοθεν ἐπιφερομένας τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν*. For the general drift of the argument and its imputation of deliberate design, cf. Cic. Phil. II § 85 *unde diadema? non enim abiectum sustuleras, sed attuleras domo meditatum et cogitatum scelus*. *προστάντας*. See p. 136.

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[r] *παραστάντας* H. Wolf; *sed* cf. 47 § 12 (Bl.).

ἐν[s] *μάλθῃ γεγραμμένην τὴν μαρτυρίαν, ἵν', εἴ*[t] *τι προσγράψαι ἢ ἀπαλεῖψαι ἐβουλήθη, ῥᾴδιον ἦν*[u].

12 *Οὐκοῦν κατὰ μὲν ταῦτα πάντα ἐξελέγχεται τὰ ψευδῆ*[v] *μεμαρτυρηκὼς καὶ παρὰ τὸν νόμον· βούλομαι δ' ὑμῖν καὶ αὐτὸ τοῦτο ἐπιδεῖξαι, ὡς οὔτε διέθετο ὁ πατὴρ ἡμῶν διαθήκην οὐδεμίαν, οὔθ' οἱ νόμοι ἐῶσιν. εἰ γάρ τις ἔροιτο ὑμᾶς, καθ' ὁποίους νόμους δεῖ πολιτεύεσθαι ἡμᾶς, δῆλον ὅτι ἀποκρίναισθ' ἂν κατὰ τοὺς κειμένους. ἀλλὰ μὴν οἵ γε νόμοι ἀπαγορεύουσι ‘μηδὲ*

[s] Z *cum Reiskio.* *καὶ ἐν* Bekker *cum libris.*

[t] *εἰ...βουληθῇ* Z *cum libris.* *ἐάν...βουληθῇ* G. H. Schaefer, *ἄν...βουληθῇ* Dind. ‘*malim ἐβουλήθη vel βουληθείη*’ Sauppe; *εἰ...ἐβουλήθη* Bl.

[u] *ᾖ* H. Wolf (Dind). *ἦν cum libris* Z, ‘*referuntur haec per anacoluthiam quandam ad Phormionem et Stephanum, itaque est locus imperfecto ἦν*’ (Bl.).

[v] *τά τε ψευδῆ mavult* Bl. *coll.* § 8, ‘*quamquam etiam* § 27 *τε omittitur.*’

τοὺς προστάντας] These words are rather obscure. Kennedy renders *προστάντας* as equivalent to *παρόντας*. Rather, perhaps, ‘who stand forward voluntarily.’ P.]

ἵν', εἰ ... ἐβουλήθη, ῥᾴδιον ἦν] Or. 28 § 5 *ἐχρῆν εἰσκαλέσαντας μάρτυρας πολλοὺς παρασημήνασθαι κελεῦσαι τὰς διαθήκας, ἵν', εἴ τι ἐγίγνετο ἀμφισβητήσιμον, ἦν εἰς τὰ γράμματα ταῦτ' ἐπανελθεῖν* (Goodwin's *Moods and Tenses*, § 333, ed. 1886).

§§ 12—17. *Further, my father made no will at all, nor do the laws allow it, laws which bind every citizen of Athens without exception. It was not until ten years after my father's death that Phormion obtained the citizenship; not foreseeing this, how could my father have insulted our family, cast contempt on your bounty and disregarded the laws, by giving his own wife in marriage to Phormion, and that by a will which he was legally incompetent to make? The law forbids a man's making a will if he have male issue lawfully begotten.—Again, the law only allows those who are not ‘adopted’ to dispose of their property by will, and my father was a citizen by ‘adoption’ only. Lastly, it does not permit a person to make a will if he is of unsound mind, and the terms of the alleged ‘will’ which give my father's widow to Phormion are inconsistent with the terms of the ‘lease,’ and argue the absence of sound mind and therefore my father's incompetence to make any will whatever.*

12. *κειμένους...θεῖναι*] *κεῖμαι* is constantly borrowed as a perfect passive to *τίθημι*, while *τέθειμαι* is almost invariably

νόμον ἐξεῖναι ἐπ' ἀνδρὶ[w] θεῖναι, ἂν μὴ τὸν αὐτὸν ἐφ'
ἅπασιν Ἀθηναίοις.' οὐκοῦν ὁ μὲν νόμος οὑτοσὶ τοῖς 13
αὐτοῖς νόμοις πολιτεύεσθαι ἡμᾶς κελεύει καὶ οὐκ
ἄλλοις. ὁ δὲ πατὴρ ἐτελεύτησεν ἐπὶ Δυσνικήτου
ἄρχοντος, ὁ δὲ Φορμίων Ἀθηναῖος ἐγένετο ἐπὶ Νικοφήμου ἄρχοντος, δεκάτῳ ἔτει ὕστερον ἢ ὁ πατὴρ
ἡμῶν ἀπέθανεν. πῶς ἂν οὖν μὴ εἰδὼς ὁ πατὴρ αὐτὸν
Ἀθηναῖον ἐσόμενον, ἔδωκεν ἂν τὴν ἑαυτοῦ γυναῖκα,
1133 καὶ προεπηλάκισε μὲν ἂν ἡμᾶς, κατεφρόνησε δ' ἂν
τῆς δωρειᾶς ἧς παρ' ὑμῶν ἔλαβε, παρεῖδε δ' ἂν τοὺς
νόμους; πότερα δὲ κάλλιον ἦν αὐτῷ ζῶντι πρᾶξαι
ταῦτα, εἴπερ ἐβούλετο, ἢ ἀποθανόντα διαθήκας καταλιπεῖν, ἃς οὐ κύριος ἦν; ἀλλὰ μὴν αὐτῶν τῶν νόμων 14
ἀκούσαντες γνώσεσθε, ὡς οὐ κύριος ἦν διαθέσθαι.
λέγε τὸν νόμον.

ΝΟΜΟΣ.

Ὅσοι μὴ ἐπεποίηντο, ὥστε μήτε ἀπειπεῖν μήτ' ἐπιδικά-

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[w] S (Dind. Bl.). *ἐπ' ἀνδρὶ ἐξεῖναι* FQ (Z *et* Bekker st.); 23 § 86.

used as a deponent perfect. Thus the usage of the perfect in the best writers would be:

ὁ νομοθέτης τέθεικε τὸν νόμον.
ἡ πόλις τέθειται τὸν νόμον.
ὁ νόμος κεῖται.

(See further in notes on Or. 34 § 16, Or. 39 Argument, line 23, and on Isocr. ad Dem. § 36.)

μηδὲ νόμον...ἐπ' ἀνδρὶ θεῖναι] Just as a *privilegium* was forbidden by Roman law, so at Athens legislation expressly affecting a particular individual, whether in his interest or to his detriment, was not allowed, except in the single instance of *ostracism;* cf. the law quoted in Andocides, de mysteriis § 87 *μηδὲ ἐπ' ἀνδρὶ νόμον ἐξεῖναι θεῖναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις, ἐὰν μὴ ἑξακισχιλίοις δόξῃ κρύβδην ψηφιζομένοις*, and see Dem. Or. 24 (Timocrates) § 59, and 23 (Aristocr.) § 86.

13. *ὁ μὲν νόμος...ὁ δὲ πατὴρ κ.τ.λ.*] The sentence is rather loosely written, and the sense might have been brought out better by some such arrangement as this: *ὁ μὲν νόμος...κελεύει, ὁ δὲ πατὴρ Φορμίωνι οὔπω Ἀθηναίῳ γενομένῳ ἔδωκε τὴν ἑαυτοῦ γυναῖκα· ἐτελεύτησε γὰρ κ.τ.λ.* A similar looseness of structure may be noticed in §§ 25 and 15—*ἐπὶ Δυσνικήτου* B.C. 370. *ἐπὶ Νικοφήμου* B.C. 360.

τῆς δωρειᾶς] sc. *τῆς πολιτείας.* Or. 36 § 30.

14. *ὅσοι μὴ ἐπεποίηντο κ.τ.λ.*] 'Any citizen (with the excep-

σασθαι, ὅτε Σόλων εἰσῄει τὴν ἀρχήν, τὰ ἑαυτοῦ διαθέσθαι εἶναι, ὅπως ἂν ἐθέλῃ, ἂν μὴ παῖδες ὦσι γνήσιοι ἄρρενες, ἂν μὴ μανιῶν ἢ γήρως ἢ φαρμάκων ἢ νόσου ἕνεκα[x], ἢ γυναικὶ

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[x] ἕνεκα Bl.; ἕνεκεν *codices*.

tion of such as had been adopted when Solon entered on his archonship, and had thereby become unable either to renounce or to claim an inheritance) shall be allowed to dispose of his own property at his pleasure, provided he have no male issue lawfully begotten.' Cf. Or. 44 § 68 'ὅσοι μὴ ἐπεποίηντο' φησὶν 'ὅτε Σόλων εἰσῄει εἰς τὴν ἀρχήν, ἐξεῖναι αὐτοῖς διαθέσθαι ὅπως ἂν ἐθέλωσιν,' ὡς τοῖς γε ποιηθεῖσιν οὐκ ἐξὸν διαθέσθαι. Isaeus Or. 6 (Philoctemon) § 28 τοῖς φύσει υἱέσιν αὐτοῦ οὐδεὶς οὐδενὶ ἐν διαθήκῃ γράφει δόσιν οὐδεμίαν, διότι ὁ νόμος αὐτὸς ἀποδίδωσι τῷ υἱεῖ τὰ τοῦ πατρὸς καὶ οὐδὲ διαθέσθαι ἐᾷ ὅτῳ ἂν ὦσι παῖδες γνήσιοι. Hermann, *Rechtsalt.* ed. Thalheim § 10 p. 72^4.

The law is quoted to prove that Pasion had no right to make a will, (1) because he had male issue lawfully begotten (sc. Apollodorus). But it will be noticed that the law does not forbid such persons from making any will whatsoever. It simply enacts that those who have no male issue may dispose of their property as they please. Pasion was not debarred by this law from making *a* will, but was not allowed to make any disposition he chose, since (as in our law of entail) the right to the property was secured to the son.

Again (2), Pasion was a citizen by 'adoption,' whereas this law implies that no 'adopted' person could dispose of his property as he pleased. But it will be observed on the other side, that the plaintiff has deliberately confounded two different senses of ποιεῖσθαι (1) 'to adopt into a family' and (2) 'to present with the citizenship.' ἐπεποίηντο refers to 'family adoption' (Or. 44 Leoch. ad fin.), and the plaintiff argues as though it meant the same as ἐπεποίητο πολίτης.

ἀπειπεῖν...ἐπιδικάσασθαι] Or. 52 (Callippus) § 19 οὔτε ἀμφισβητήσαντα οὔτε ἀπειπόντα περὶ τοῦ ἀργυρίου. ἀπειπεῖν may be paralleled by the phrase in Roman law *eiurare hereditatem*. For ἐπιδικάσασθαι cf. note on 45 § 75.

διαθέσθαι—ἄρρενες] Isaeus 2 § 13 (ὁ νόμος) κελεύει τὰ ἑαυτοῦ ἐξεῖναι διαθέσθαι ὅπως ἂν ἐθέλῃ, ἐὰν μὴ παῖδες ἄρρενες ὦσι γνήσιοι.

μανιῶν] genitive, like the three subsequent substantives, governed by ἕνεκα at the end of the clause. 'Unless his mind is impaired by lunacy, or dotage, or by drugs or disease.' Kennedy. Aristotle's *Constitution of Athens*, 35 § 2 ἐὰν μὴ μανιῶν ἢ γήρως <ἕνεκα> ἢ γυναικὶ πιθόμενος. Hyperides, *Athenogenes*, Col. VIII ἐξεῖναι τὰ ἑαυτοῦ διατίθεσθαι, ὡς ἄν τις βούληται, πλὴν [ἢ γήρως] ἕνε[κεν] ἢ νόσου ἢ μανιῶν ἢ γυ[ναικὶ] πειθόμ[ενο]ν ἢ [ὑπό τινος ἀνάγ]κης κ[ατ]αληφθ[έντ]α.

γυναικὶ πειθόμενος] Or. 48 § 6 ἄκυρά γε ταῦτα πάντα ἐνομοθέτησεν εἶναι ὁ Σόλων, ὅ τι ἄν τις γυναικὶ πειθόμενος πράττῃ.

πειθόμενος, ὑπὸ τούτων του παρανοῶν[y]*, ἢ ὑπ' ἀνάγκης, ἢ ὑπὸ δεσμοῦ καταληφθείς.*

Τοῦ μὲν νόμου τοίνυν ἀκηκόατε, ὃς οὐκ ἐᾷ δια- 15
θήκας διαθέσθαι, ἐὰν παῖδες ὦσι γνήσιοι. οὗτοι δέ
φασι ταῦτα διαθέσθαι τὸν πατέρα, ὡς δὲ παρεγένοντο
οὐκ ἔχουσιν ἐπιδεῖξαι[z]*. ἄξιον δὲ καὶ τόδε ἐνθυμηθῆ-*
ναι, ὅτι ὅσοι μὴ ἐπεποίηντο, ἀλλ' ἦσαν πεφυκότες
γνήσιοι, τούτοις ὁ νόμος δίδωσιν, ἐὰν ἄπαιδες ὦσι,
διαθέσθαι τὰ ἑαυτῶν. ὁ τοίνυν πατὴρ ἡμῶν ἐπε-
ποίητο ὑπὸ τοῦ δήμου πολίτης, ὥστε οὐδὲ κατὰ τοῦτο
ἐξῆν αὐτῷ διαθέσθαι διαθήκην, ἄλλως τε καὶ περὶ τῆς
γυναικός, ἧς οὐδὲ κύριος ἐκ τῶν νόμων ἦν, παῖδές τε
ἦσαν αὐτῷ. σκέψασθε δὲ καὶ διότι οὐδ' ἂν ἄπαις τις 16
ᾖ, κύριός ἐστι τὰ αὑτοῦ διαθέσθαι, ἐὰν μὴ εὖ φρονῇ·
νοσοῦντα δὲ ἢ φαρμακῶντα ἢ γυναικὶ πειθόμενον ἢ

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[y] Z, Dind. *et* Bl. *cum P. Wesseling.* *ὑπὸ τούτων τοῦ παρανόμων* *codices.* *ἢ ὑπὸ τῶν του παρανόμων* Bekker *cum Reiskio.*

[z] *ἐπιδεῖξαι* Z, Bl. *ὑποδεῖξαι* Dind. *cum* S (*prima manu*).

ὑπὸ τούτων του παρανοῶν] Cf. Isaeus Or. 9 ad fin. *εἰ τοῦτον ἐποιήσατο υἱὸν οὗ τῷ πατρὶ πολεμιώτατος ἦν, πῶς οὐ δόξει τοῖς ἀκούσασι παρανοεῖν ἢ ὑπὸ φαρμάκων διεφθάρθαι*; and *ib.* Or. 6 (Philoct.) § 9 *οὑτοσὶ ὁ νόμος κοινὸς ἅπασι κεῖται, ἐξεῖναι τὰ ἑαυτοῦ διαθέσθαι, ἐὰν μὴ παῖδες ὦσι γνήσιοι ἄρρενες, ἐὰν μὴ ἄρα μανεὶς ἢ ὑπὸ γήρως ἢ δι' ἄλλο τι τῶν ἐν τῷ νόμῳ παρανοῶν διαθῆται*, Lysias, frag. 74 *διέθετο οὐ παρανοῶν οὐδὲ γυναικὶ πεισθείς*, Plut. Sol. 21.—On *φαρμάκων* see further in § 16 *φαρμακῶντα*.—*νόσου ἕνεκα* can only refer to cases where the mind was enfeebled, for bodily infirmity was of course in itself no bar to the validity of a will (Becker, *Charicles*, Scene IX note 19).

16. *διότι*] In the same sense as *ὅτι*, for which it is not unfrequently used, especially by Isocrates when a *hiatus* is thereby avoided, e.g. Isocr. Lochites § 7 *ἐνθυμουμένους ὅτι* followed by *καὶ διότι*. Isocr. Paneg. § 48 n. Here *σκέψασθε δὲ καὶ διότι* corresponds in sense to *ἄξιον δὲ καὶ τόδε ἐνθυμηθῆναι, ὅτι* in the previous section.

εὖ φρονῇ] Isaeus Or. 7 § 1 *εἴ τις αὐτὸς ζῶν καὶ εὖ φρονῶν ἐποιήσατο*, contrasted with *εἴ τις τελευτήσειν μέλλων διέθετο, εἴ τι πάθοι, τὴν οὐσίαν ἑτέρῳ*. Eur. Ion 520 *εὖ φρονεῖς μέν*; i.e. *ἆρα ἔμφρων εἶ*;—On *νοσοῦντα* see above, § 14 *νόσου ἕνεκεν*.

φαρμακῶντα] Harpocr. *Δημοσθένης ἐν τῷ κατὰ Στεφάνου.*

ὑπὸ γήρως ἢ ὑπὸ μανιῶν ἢ ὑπὸ ἀνάγκης τινὸς κατα-
ληφθέντα ἄκυρον κελεύουσιν εἶναι οἱ νόμοι. σκοπεῖτε
δή[a], εἰ δοκοῦσιν ὑμῖν εὖ φρονοῦντος ἀνδρὸς εἶναι αἱ 1134
17 διαθῆκαι, ἅς φασι διαθέσθαι οὗτοι τὸν πατέρα. μὴ
πρὸς ἄλλο δέ τι παράδειγμα σκέψησθε ἢ πρὸς τὴν
μίσθωσιν, εἰ δοκεῖ ὑμῖν ἀκόλουθον εἶναι τῷ τὴν τέχνην
μὴ ἐξουσίαν δοῦναι εἰ μὴ[b] ἐν τῷ αὐτῷ ἡμῖν ἐργάζεσθαι,
τούτῳ τὴν γυναῖκα δοῦναι τὴν αὐτοῦ καὶ τῶν παίδων
ἐᾶσαι κοινωνὸν αὐτῷ γενέσθαι. καὶ μὴ θαυμάζετε,
εἰ τἄλλα σκευωρουμένους αὐτοὺς τὰ ἐν τῇ μισθώσει
τοῦτο παρέλαθεν. ἴσως μὲν γὰρ οὐδὲ προσεῖχον
ἄλλῳ οὐδενί, ἢ τῷ τὰ χρήματα ἀποστερῆσαι καὶ τῷ
προσοφείλοντα τὸν πατέρα ἐγγράψαι· εἶτα[c] οὐδὲ

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[a] Bekker *cum correcto* S. *δὲ* Z *cum* S (*prima manu*).

[b] *δοῦναι εἰ μὴ* Bl. *coll.* 45 §§ 31, 34. *δόντι codices.*

[c] *εἶτα* FQ (Bl.). *εἶτα δὲ* S (Dind.), *γρ.* Q.

ἔστι δὲ φαρμακῶν ὁ ὑπὸ φαρμάκων βεβλαμμένος, ὡς καὶ Θεόφραστος ἐν ιε′ Νόμων *ὑποσημαίνει.*

[*φαρμακᾶν* is one of a class of verbs implying mental or bodily affection, e.g. *λημᾶν*, 'to have blear eyes,' *ποδαγρᾶν*, *χαλαζᾶν*, *φονᾶν*, 'to be blood-thirsty,' *θυνατᾶν*, 'to have a desire for death,' *τομᾶν*, 'to require the knife,' &c. The verbs themselves are less commonly used than their participles. P.] Cf. Rutherford's *New Phrynichus* p. 153.

εἰ δοκοῦσιν εὖ φρονοῦντος κ.τ.λ.] It is curious to find the plaintiff setting up this suggestion of lunacy when in another speech, Or. 49 (Timoth.) § 42, delivered at an earlier date, he describes his father as not only giving him a written statement of debts due, but also, in his last illness, telling him and his brother the details of each particular sum, the name of the debtor, and even the purpose for which the money was lent.

He might have turned his argument to more account, if, instead of insinuating that the terms of the alleged will suggested that his father was of unsound mind, and therefore legally incompetent to make any will at all, he had urged that, his father having been of sound mind up to the day of his death, the 'insane' provisions of the will betrayed it to be a forgery.

17. *τῶν παίδων ... κοινωνὸν αὐτῷ*] Kennedy: 'partner with himself in paternity' (by marrying his widow).

σκευωρουμένους] cf. Or. 45 § 5.

ἐγγράψαι] Specially used of 'registering' a man as debtor. Cf. Or. 25 § 70, 53 § 14.

ἐδόκουν ἐμὲ οὕτω δεινὸν ἔσεσθαι, ὥστε ταῦτα ἀκριβῶς ἐξετάσαι.

Σκέψασθε τοίνυν καὶ τοὺς νόμους, παρ᾽ ὧν κελεύουσι τὰς ἐγγύας ποιεῖσθαι, ἵν᾽ εἰδῆτε καὶ ἐκ τούτων ὡς κατεσκευασμένης διαθήκης ψευδὴς μάρτυς γέγονε Στέφανος οὑτοσί.[d] 18

ΝΟΜΟΣ.

Ἣν ἂν ἐγγυήσῃ ἐπὶ δικαίοις δάμαρτα εἶναι ἢ πατὴρ ἢ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρός, ἐκ ταύτης εἶναι παῖδας γνησίους. ἐὰν δὲ μηδεὶς ᾖ τούτων, ἐὰν μὲν ἐπίκληρός τις ᾖ, τὸν κύριον ἔχειν, ἐὰν δὲ μὴ ᾖ[e], ὅτῳ ἂν ἐπιτρέψῃ, τοῦτον κύριον εἶναι.

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[d] + λέγε Bekker. *om.* Z *et* Bl. *cum* S; cf. §§ 10, 24.

[e] Bekker *cum libris.* *om.* Z.

οὕτω δεινὸν] 'They little dreamt I should be clever enough to examine all these questions thoroughly.' This passage has been quoted as an indication of the plaintiff's consciousness of his own oratorical skill, and as a presumption in favour of the view that Apollodorus is himself the writer of the speeches delivered by him which have come down to us among the orations of Demosthenes (A. Schaefer, *Dem. u. s. Zeit*, III 2, 192).

§§ 18—21. *The forgery of the will is also proved by the law of betrothals, which provides that a woman may be affianced for lawful wedlock by her guardians, i.e. certain near relations, such as father, brother, or grandfather. As none of these are in existence, and you may be sure that the other side would have produced them, or pretended to do so, to suit their purpose, it follows that my mother was an 'heiress,' and the law declares that the son of an heiress, when he comes of age, shall be his mother's guardian. Now I was abroad on public service* (*and therefore of full age*) *when Phormion married my mother* (*and he did so without obtaining the consent of myself, her guardian*).

18. σκέψασθε τοὺς νόμους] The accusative after the principal verb, where in English we should prefer making it the nom. of the subordinate clause. Cf. Or. 45 § 24. Kennedy partially keeps up the Greek construction by rendering it thus: 'look now at the laws, (to see) from whom they require betrothals to be obtained.'

ἐγγύας] The betrothal (ἐγγύησις) was made by the natural or legal guardian of the girl, in the presence of the relatives of both parties. 'All children born before a marriage legally contracted in this respect were γνήσιοι, and consequently, if sons, ἰσόμοιροι, or entitled to inherit equally.' Dict. Ant. s. v. *Matrimonium*, Hermann, *Privatalt.* § 30,7 (= p. 261 ed. Blümner).

19 Οὗτος μὲν τοίνυν ὁ νόμος οὓς ἐποίησε κυρίους
εἶναι, ἀκηκόατε· ὅτι δ' οὐδεὶς ἦν τούτων τῇ μητρί, οἱ
ἀντίδικοί μοι αὐτοὶ μεμαρτυρήκασιν. εἰ γὰρ ἦν,
παρείχοντ' ἄν. ἢ μάρτυρας μὲν ψευδεῖς οἴεσθ' ἄν[f]
παρασχέσθαι καὶ διαθήκας οὐκ οὔσας, ἀδελφὸν δὲ ἢ
πάππον ἢ πατέρα οὐκ ἄν, εἴπερ ἦν δυνατὸν ἕνεκα
χρημάτων; ὁπότε τοίνυν μηδεὶς φαίνεται ζῶν τούτων,
τότε ἀνάγκη ἐπίκληρον τὴν μητέρα ἡμῶν εἶναι. τῆς
τοίνυν ἐπικλήρου σκοπεῖτε τίνας κελεύουσιν οἱ νόμοι 1135
20 κυρίους εἶναι. λέγε τὸν νόμον.

ΝΟΜΟΣ.

Καὶ ἐὰν ἐξ ἐπικλήρου τις γένηται, καὶ ἅμα ἡβήσῃ ἐπὶ δίετες, κρατεῖν τῶν χρημάτων[g], τὸν δὲ σῖτον μετρεῖν τῇ μητρί.

Οὐκοῦν ὁ μὲν νόμος κελεύει τοὺς παῖδας ἡβήσαντας κυρίους τῆς μητρὸς εἶναι, τὸν δὲ σῖτον μετρεῖν τῇ

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[f] 'cum vocula ἂν... tantummodo ad posterius membrum referri possit (nam attractione in tali sententiae conformatione non est locus), pro οἴεσθ' ἂν scribendum duco οἴεσθ' αὐτούς. ellipsin accusativi per se tolerabilem esse putarem, quamquam αὐτόν et αὐτούς, nisi generalis est sententia, in contrario non facile omittuntur' (Gebauer, *de argumenti ex contrario formis* p. 207).

[g] *καὶ κύριον εἶναι τῆς μητρὸς addendum putat* Bl.

20. *καὶ ἐὰν—μητρί*] 'If a son is born of an heiress, two years after he has attained his puberty he shall enter into possession of the estate, and he shall pay alimony to his mother.' Kennedy. Harpocr. *ἐπιδιετὲς ἡβῆσαι· Δημοσθένης ἐν τῷ κατὰ Στεφάνου.* At the end of his article he quotes Hyperides (frag. 223) *ἐπεὶ δὲ ἐνεγράφην ἐγὼ καὶ ὁ νόμος ἀπέδωκε τὴν κομιδὴν τῶν καταλειφθέντων τῇ μητρί, ὃς κελεύει κυρίους εἶναι τῆς ἐπικλήρου καὶ τῆς οὐσίας ἁπάσης τοὺς παῖδας, ἐπειδὰν ἐπιδιετὲς ἡβῶσιν.* Cf. Isaeus frag. 90, *id.* Or. 10 § 12 and Or. 8 § 31. See A. Schaefer, Dem. III 2, 19—39, esp. p. 25, *Eintritt der Mündigkeit nach Attischen Rechte*, where *ἐπιδιετὲς ἡβῆσαι* is explained to include the 17th and 18th year, and the 'coming of age' is placed at the age of 18. Aristotle, *Const. of Athens*, 42 § 1 *ἐγγράφονται δ' εἰς τοὺς δημότας ὀκτωκαίδεκα ἔτη γεγονότες.* Cf. Hermann, *Privatalt.* § 35, p. 322 Blümner, and *Rechtsalt.* § 2 p. 10^4 and p. 13^4 Thalheim.

On *ἐπίκληρος* see note on Or. 45 § 75. (Cf. Lortzing, *Apoll.* p. 85 and A. Schaefer *u. s.* p. 176.)

μητρί. ἐγὼ δὲ φαίνομαι στρατευόμενος καὶ τριηραρ-
χῶν ὑμῖν, ὅτε οὗτος συνῴκησε τῇ μητρί. ἀλλὰ μὴν 21
ὅτι ἐγὼ μὲν ἀπεδήμουν τριηραρχῶν, ἐτετελευτήκει[h] δ'
ὁ πατὴρ πάλαι, ὅτε οὗτος ἔγημε, τὰς δὲ θεραπαίνας
αὐτὸν ἐξῄτουν καὶ ἠξίουν περὶ αὐτοῦ τούτου βασανί-
ζεσθαι αὐτάς, εἰ ταῦτ' ἀληθῆ ἐστι, [i]καὶ ὡς προεκαλού-
μην[i], λαβέ μοι τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

Μαρτυροῦσι παρεῖναι,[i] ὅτε προὐκαλεῖτο Ἀπολλόδωρος Φορμίωνα[i], ὅτε ἠξίου παραδοῦναι[j] Ἀπολλόδωρος Φορμίωνα τὰς θεραπαίνας εἰς βάσανον, εἰ μή φησι Φορμίων καὶ πρότερον διεφθαρκέναι τὴν μητέρα τὴν ἐμήν, πρὶν οὗ[k] ἀποφαίνει Φορμίων γῆμαι ἐγγυησάμενος αὐτὴν παρὰ Πασίωνος. ταῦτα δὲ προκαλουμένου Ἀπολλοδώρου οὐκ ἠθέλησε Φορμίων παραδοῦναι τὰς θεραπαίνας.

Τὸν τοίνυν νόμον ἐπὶ τούτοις ἀνάγνωθι, ὃς κελεύει 22

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[h] τετελευτήκει Z *cum* S.

[i–i] '*apparet ex correctione ab auctore postmodo inserta fuisse*' Bl.

[j] παραδοῦναι Reiske (Bl.). ἀποδοῦναι *codices*.

[k] Cf. 17 § 21.

στρατευόμενος κ.τ.λ.] And therefore of full age; referring back to παῖδας ἡβήσαντας.

21. πάλαι] Pasion died B.C. 370, the trierarchy probably took place in B.C. 368 (Or. 45 § 3), and it was during the plaintiff's absence on this public service that the marriage of Archippe took place. The interval here implied by the vague word πάλαι 'some time before' would seem to be two years. The plaintiff wishes to insinuate that, though some time elapsed before the marriage proper (ἔγημε), intrigues had been going on at an earlier date, and this is how the writer of the deposition in § 21 seems to have understood it.

τὴν μητέρα τὴν ἐμήν] These words, which would have been appropriate enough in the mouth of Apollodorus, are out of place in the deposition, and betray carelessness on the part of the compiler of the document. Even apart from this detail, the general contents of the deposition are different from what we are led to expect by the plaintiff's language in introducing it. (A. Westermann, *u. s.* p. 113.)

§§ 22, 23. *The law does not allow any one to marry an 'heiress,' without a legal adjudication. Phormion made no*

ἐπιδικασίαν εἶναι τῶν ἐπικλήρων ἁπασῶν, καὶ ξένων καὶ ἀστῶν, καὶ περὶ μὲν τῶν πολιτῶν τὸν ἄρχοντα εἰσάγειν καὶ ἐπιμελεῖσθαι, περὶ δὲ τῶν μετοίκων τὸν πολέμαρχον, καὶ ἀνεπίδικον μὴ ἐξεῖναι ἔχειν μήτε κλῆρον μήτε ἐπίκληρον.

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Κληροῦν δὲ τὸν ἄρχοντα κλήρων καὶ ἐπικλήρων, ὅσοι εἰσὶ μῆνες, πλὴν τοῦ σκιροφοριῶνος. ἀνεπίδικον δὲ κλῆρον μὴ ἔχειν[1].

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[1] '*apparet legem, quam recitari iussit actor, ampliorem fuisse quam nunc tradita est*' Bl.

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legal claim for the hand of my mother, but did exactly as he pleased, in defiance of the law.

22. τῶν ἐπικλήρων] The plaintiff attempts to prove that his mother was an 'heiress.' If so, her property ought to have passed absolutely into the hands of her eldest son, on his coming of age, whether her husband was alive or not. But there is not a single trace of such a relation between Archippe and Apollodorus in the rest of the speeches of the latter. Archippe was most probably of foreign extraction (cf. Or. 45 § 22) and the plaintiff's argument seems the merest shuffling. (See further, A. Schaefer, *Dem. u. s. Zeit*, III 2, 176.) On ἐπιδικασία τῶν ἐπικλήρων cf. Aristotle's *Const. of Athens*, 56 § 6 (among the duties of the Archon) κλήρων καὶ ἐπικλήρων ἐπιδικασίαι, and see note on Or. 45 § 75.

κληροῦν κλήρων κ.τ.λ.] i.e. 'assign by lot days for the trial of claims to inheritances or heiresses.' Below, we have the corresponding phrase λαχεῖν τῆς ἐπικλήρου, i.e. 'to have allotted to one a suit for the hand of the heiress.' Compare the common phrases λαγχάνειν and κληροῦν δίκην. So λαγχάνειν τοῦ κλήρου 'to be a suitor for the property,' Isaeus Or. 11 (Hagn.) §§ 22, 40. Or. 3 (Pyrr.) § 74 and Or. 9 (Astyph.) § 4. Aristotle's *Const. of Athens*, 43 § 4 τὰς λήξεις τῶν κλήρων καὶ τῶν ἐπικλήρων. After κληροῦν Meier and Schömann, p. 807 Lips., understand δίκας.

τὸν ἄρχοντα] The Archon *Eponymus*, or Chief Archon. See Or. 35 § 48 (where the duties of the Polemarch are also mentioned) and Or. 37 § 33.

πλὴν τοῦ σκιροφοριῶνος] The last month of the Attic year, nearly corresponding to our June. It is here excepted, apparently because it was in this month that most of the magistrates vacated office and passed their audit.

ἀνεπίδικον] 'Without legal adjudication.' See Hermann, *Privatalt.* § 66, notes 1 and 2 = p. 83^4, notes 5 and 8, Thalheim.

Οὐκοῦν αὐτόν, εἴπερ ἠβούλετο[m] ὀρθῶς διαπράττεσθαι, λαχεῖν ἔδει τῆς ἐπικλήρου, εἴτε κατὰ δόσιν αὐτῷ[n] προσῆκεν[o] εἴτε κατὰ γένος, εἰ μὲν ὡς ὑπὲρ ἀστῆς, πρὸς τὸν ἄρχοντα, εἰ δ' ὡς[p] ὑπὲρ ξένης, πρὸς τὸν πολέμαρχον, καὶ τότε, εἴπερ τι λέγειν εἶχε δίκαιον, πείσαντα ὑμῶν τοὺς λαχόντας μετὰ τῶν νόμων καὶ τῆς ψήφου κύριον εἶναι, καὶ μὴ αὐτὸν αὑτῷ νόμους ἰδίους θέμενον διαπράξασθαι ἃ ἐβούλετο. 23

Σκέψασθε δὴ καὶ τονδὶ τὸν νόμον, ὃς κελεύει τὴν διαθήκην, ἣν ἂν παίδων ὄντων γνησίων ὁ πατὴρ διαθῆται, ἐὰν ἀποθάνωσιν οἱ παῖδες πρὶν ἡβῆσαι, κυρίαν εἶναι. 24

ΝΟΜΟΣ.

Ὅ τι ἂν γνησίων ὄντων υἱέων[q] ὁ πατὴρ διαθῆται, ἐὰν ἀποθάνωσιν οἱ υἱεῖς πρὶν ἐπὶ δίετες ἡβᾶν, τὴν τοῦ πατρὸς διαθήκην κυρίαν εἶναι.

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[m] Z *cum* S. ἐβούλετο Bekker. [n] αὐτῷ Z. αυτω S.

[o] G. H. Schaefer. προσήκειν Z *cum libris*.

[p] εἰ δ' ὡς Wolf (Bl.) γρ Q. εἰ δὲ (Dind.).

[q] Bl. υἱῶν *codices* (Dind.).

23. εἴπερ...εἴτε...εἴτε ..εἰ...εἰ ...εἴπερ] εἰ is here repeated in various forms no less than six times in the same sentence; cf. Or. 53 § 23, where εἰ occurs twice. But even the undisputed writings of Demosthenes contain frequent instances of such reiteration, e.g. Or. 54 § 15 (twice); Or. 15 (de Rhod. lib.) § 15 (thrice); Or. 20 (Lept.) § 113 (four times) '*quanquam hic εἰ μὲν et εἰ δὲ inter se opponuntur quae non est vera repetitio.*' (Lortzing, *Apoll.* p. 33.)

ὑμῶν τοὺς λαχόντας] 'Those of your number who were drawn for the jury' ('allotted for the trial of the cause').

§ 24. *Again, there is a law allowing a will made by a father (though he has legitimate sons) to become valid if the sons die before reaching manhood. In the present case, as the sons are alive and grown up, the 'will' is invalid.*

ἐὰν ἀποθάνωσιν—πρὶν ἡβῆσαι] 'Every man of full age and sound mind, not under durance or improper influence (cf. § 15), was competent to make a will; but if he had a son he could not disinherit him; although his will might take effect on the contingency of the son not completing his seventeenth year' (C. R. Kennedy in Dict. Ant. s. v. *Heres*).

25 Οὐκοῦν ὁπότε ζῶσιν, ἄκυρος μὲν ἡ διαθήκη ἐστίν,
ἥν φασιν οὗτοι τὸν πατέρα καταλιπεῖν, παρὰ πάντας
δὲ τοὺς νόμους μεμαρτύρηκε Στέφανος οὑτοσὶ τὰ ψευ-
δῆ, ὡς ἀντίγραφά ἐστι τῆς διαθήκης τῆς Πασίωνος·
πῶς γὰρ σὺ οἶσθα, καὶ ποῦ παραγενόμενος διατιθε-
μένῳ τῷ πατρί; κακοτεχνῶν δὲ φαίνει περὶ τὰς δίκας[r],
τὰ ψευδῆ μὲν αὐτὸς μαρτυρῶν ἑτοίμως, κλέπτων δὲ
τὰς ἀληθεῖς μαρτυρίας, ἐξαπατῶν δὲ τοὺς δικαστάς,
συνιστάμενος δ' ἐπὶ ταῖς δίκαις[s]. οἱ δὲ νόμοι καὶ περὶ
26 τῶν τοιούτων γραφὴν πεποιήκασιν. καί μοι ἀνά-
γνωθι τὸν νόμον.

ΝΟΜΟΣ.

Ἐάν τις συνίστηται[t], ἢ συνδεκάζῃ τὴν ἡλιαίαν ἢ τῶν 1137

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[r] S (Bl.). *διαθήκας codices ceteri* (Dind.).

[s] *διαθήκαις* S *et γρ* Q.

[t] *ἐπὶ ταῖς δίκαις vel ἐπὶ ταῖς δίκαις ταῖς ἰδίαις ἢ δημοσίαις addendum putat* Bl., *coll.* § 25.

For the latter part of this statement, the present passage is perhaps the only express authority.

§§ 25, 26. *Further, the defendant has illegally entered into a conspiracy to defeat the ends of justice.*

25. *κλέπτων...μαρτυρίας*] Or. 45 § 58. On *συνιστάμενος*, see note on *συστάσεις* Or. 45 § 67.

26. *συνδεκάζῃ*] 'Bribe the Heliæa.' Pollux VIII 42: *δώρων κατὰ τοῦ ἐπὶ δώροις δικάσαντος ἦν ἡ γραφή, δεκασμοῦ δὲ κατὰ τοῦ διαφθείραντος· καὶ ὁ μὲν δεκάζεσθαι ὁ δὲ δεκάζειν ἐλέγετο* (ib. VI 190). Or. 21 (Mid.) § 113 *lex, ἐάν τις...διδῷ ἑτέρῳ ἢ διαφθείρῃ τινὰς ἐπαγγελλόμενος, ἐπὶ βλάβῃ τοῦ δήμου...ἄτιμος ἔστω. δεκασμὸς* however (strictly meaning a systematic bribery by division into sets of ten) is only a late word and is not found in the Attic Orators, though *ἀδέκαστος* occurs in Ar. Ethics II 9 § 6, *οὐ γὰρ ἀδέκαστοι κρίνομεν (τὴν ἡδονήν)*, and Aeschines, Timarch. § 85, has *συνδεκάζειν τὴν ἐκκλησίαν καὶ τἆλλα δικαστήρια* and *ib.* § 86 *μαρτυρεῖν τὸν μὲν ὡς ἐδέκαζε τὸν δὲ ὡς ἐδεκάζετο.* Cf. Isocr. Or. 8 § 50 *θανάτου τῆς ζημίας ἐπικειμένης, ἐάν τις ἁλῷ δεκάζων*, and Lysias Or. 29 § 12 *δεδεκασμένοι.* So in Latin, we have *decuriare* used of organised bribery at elections, Cicero, pro Plancio § 45 *decuriatio tribulium* and *decuriasse Plancium, conscripsisse*. Cf. the obscure name given to bribed dicasts at Athens, *Λύκου δεκάς.* In wholesale bribery an agent, it is conjectured, was chosen from each tribe, and the group of ten thus selected to deal

δικαστηρίων τι τῶν Ἀθήνησιν ἢ τὴν βουλὴν ἐπὶ δωροδοκίᾳ χρήματα διδοὺς ἢ δεχόμενος, ἢ ἑταιρείαν συνιστῇ ἐπὶ καταλύσει τοῦ δήμου, ἢ συνήγορος ὢν λαμβάνῃ χρήματα ἐπὶ ταῖς δίκαις ταῖς ἰδίαις ἢ δημοσίαις, τούτων εἶναι τὰς γραφὰς πρὸς τοὺς θεσμοθέτας.

Ἡδέως ἂν τοίνυν ὑμᾶς ἐροίμην ἐπὶ τούτοις ἅπασι 27 κατὰ ποίους νόμους ὀμωμοκότες δικάζετε, πότερα κατὰ τοὺς τῆς πόλεως ἢ καθ' οὓς Φορμίων αὐτῷ νομοθετεῖ. ἐγὼ μὲν τοίνυν τούτους παρέχομαι ὑμῖν, καὶ ἐξελέγχω αὐτοὺς ἀμφοτέρους παραβεβηκότας, Φορμίωνα μὲν ἐξ ἀρχῆς ἀδικήσαντα ἡμᾶς καὶ ἀποστερήσαντα τὰ χρήματα, ἃ ὁ πατὴρ ἡμῖν κατέλιπε καὶ ἐμίσθωσε

with their fellow-tribesmen were comically called *Λύκου δεκάς* from the statue of Lycus near the law-courts. Meier and Schömann, p. 184 Lips. Harpocr. s.v. *δεκάζων*.

The usual phrase for bribery is *χρήμασι φθείρειν* (or *διαφθείρειν*), though the euphemism *χρήμασι πεῖσαι* is still more frequent. It is curious to note how frequently the word *δωροδοκία* occurs, and how rarely *δεκασμὸς* and its corresponding verb. Again and again we have charges of receiving bribes, seldom of giving them; possibly because those who gave them were too powerful to be attacked.—*ἐπὶ δωροδοκίᾳ*, 'with a corrupt motive,' is here a general term, implying without directly expressing the corresponding term *δεκασμός*.

ἑταιρείαν ἐπὶ καταλύσει τοῦ δήμου] Thuc. VIII 54, *ὁ Πείσανδρος τὰς ξυνωμοσίας...ἁπάσας ἐπελθὼν καὶ παρακελευσάμενος ὅπως...καταλύσουσι τὸν δῆμον κ.τ.λ.* See Grote, H. G. chap. 51 (iv p. 394, ed. 1862). Cf. Aristotle's *Const. of Athens*, 8 § 4 *τοὺς ἐπὶ καταλύσει τοῦ δήμου συνισταμένους*, 25 § 3 *συνισταμένους ἐπὶ καταλύσει τῆς πολιτείας*, Hyperides, *pro Eux.* 22.

ἐπὶ ταῖς δίκαις κ.τ.λ.] 'In any cause either of a public or private nature.' Kennedy. Rather (as above, § 25), 'with a view to winning the causes brought either by private persons or on public grounds.' It is to a collusion for such a purpose between the *σύνδικος* and the *συνήγορος* that Aristophanes alludes in Vesp. 694. P.]

θεσμοθέτας] 'The six minor Archons.' *γραφαὶ δώρων* are among the duties assigned to them in Aristotle's *Const. of Athens*, 5 § 3.

§ 27. *The jury has sworn to do justice according to the laws of Athens and not the laws which Phormion chooses to lay down for himself. I produce the laws of Athens and I prove that both of my opponents have broken them, Phormion by defrauding me of the money left me by my father, Stephanus by giving false evidence and that contrary to the law.*

τὰ χρήματα] sc. the Banking-stock, which is the subject of

τούτῳ μετὰ τῆς τραπέζης καὶ τοῦ ἐργαστηρίου, Στέφανον δὲ τουτονὶ τὰ ψευδῆ μεμαρτυρηκότα καὶ παρὰ τὸν νόμον.

28 *Ἄξιον τοίνυν ὦ ἄνδρες δικασταὶ καὶ τόδε ἐνθυμηθῆναι, ὅτι διαθηκῶν*[u] *οὐδεὶς πώποτε ἀντίγραφα ἐποιήσατο, ἀλλὰ συγγραφῶν μέν, ἵνα εἰδῶσι καὶ μὴ παραβαίνωσι, διαθηκῶν δὲ οὔ. τούτου γὰρ ἕνεκα καταλείπουσιν*[v] *οἱ διατιθέμενοι, ἵνα μηδεὶς εἰδῇ ἃ διατίθενται. πῶς οὖν ὑμεῖς ἴστε ὅτι ἀντίγραφά ἐστι τῶν διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματείῳ γεγραμμένα;*

29 *Δέομαι οὖν*[w] *ὑμῶν ἁπάντων ὦ ἄνδρες δικασταὶ καὶ ἱκετεύω βοηθῆσαι μὲν ἐμοί, τιμωρήσασθαι δὲ τοὺς ἑτοίμως οὕτως*[x] *τὰ ψευδῆ μαρτυροῦντας, ὑπέρ*

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[u] *margo ed. Parisiensis.* *διαθήκης* Z *cum* SQ. *διαθήκας* F.

[v] *κατασεσημασμένας καταλείπουσιν* (Reiske, Bl.); *κατακλείουσιν* (Seager, Paley); *οὐ καταλείπουσιν*, sc. *διαθηκῶν ἀντίγραφα* (G. H. Schaefer).

[w] *γρ* Q (Bl.). *δὲ codices* (Dind.). [x] S (Bl.). *οὕτω* Dind.

Or. 36. The *ἐργαστήριον* is the shield-manufactory of Or. 36 § 4.

§ 28. *The jury, by the way, should also notice that no one ever makes a copy of a will. How then came Stephanus and his friends to know that the contents of the document appended to the deposition are a copy of my father's will?*

καταλείπουσιν] is especially used of leaving behind one at *death*. 'The reason why people leave their wills behind them (instead of publishing them before they die) is to prevent any one knowing their contents.' Kennedy renders it: 'keep wills by them until their death.' [I incline to think *κατακλείουσιν* is the true reading. The reason why people 'leave wills' is to shew how they wish to dispose of their property; the reason why they 'keep them under lock and key' is that no one may have access to them. P.] This sense is best expressed by *κατασεσημασμένας καταλείπουσιν*.

For the reiteration *διατιθέμενοι...διατίθενται*, see §§ 2 and 3.

§ 29. *I implore the jury to grant me redress, that those who are so prompt to give false evidence may be punished on all grounds, particularly for the sake of justice and the laws.*

τε ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.

τῶν νόμων] Placed last for emphasis, since the whole speech has dealt with quotations of laws and not with *εἰκότα*, or 'presumptive proofs,' as in the former oration.

LIII.

ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ ΑΡΕΘΟΥΣΙΟΥ[a].

ΥΠΟΘΕΣΙΣ.

Ἀπολλόδωρος γραψάμενος ψευδοκλητείας Ἀρεθούσιον εἷλεν. ὀφλόντος[b] δὲ τοῦ Ἀρεθουσίου τάλαντον τῇ πόλει καὶ ἀποδοῦναι μὴ δυνηθέντος, καὶ διὰ τοῦτ' εἰς τὰ δημόσι' ἀπογραφομένης αὐτοῦ τῆς οὐσίας, ἀπογράφει καὶ[bb] ὁ Ἀπολλόδωρος οἰκέτας ὡς ὄντας Ἀρεθουσίου, ὁ δὲ Νικόστρατος[c] μεταποιεῖται ὡς ἰδίων καὶ ἐκείνῳ προσηκόντων οὐδέν. ἐπεὶ δὲ τὸ πρᾶγμα μοχθηρόν[d], διὰ τοῦθ' ὁ ῥήτωρ διηγεῖται πηλίκα πέπονθεν

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[a] *πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων* Z.

[b] Bl. *ὀφείλοντος codices.* [bb] *propter hiatum addidit*, Bl.

[c] [*ὁ δὲ Νικόστρατος*] Z. *addidit* Bekker *cum H. Wolf.* *καὶ* S.

[d] + *ἐστι* S (Dind.).

1. *ψευδοκλητείας*] § 15 note.

7. *μοχθηρόν*] 'vexatious,' sc. *συκοφαντικόν*.

§§ 1—3. (*Arethusius has incurred a debt to the public treasury and has neglected to discharge it.*) *I have accordingly laid an information against him and drawn up a specification of his property. I have done so, not in the spirit of an informer, but in the simple desire to exact vengeance for having been outrageously wronged by Arethusius and his brother Nicostratus. The purity of my motives will be proved,* (1) *by the small amount at which the two slaves are valued* (*two-and-a-half minae*), *so that the pecuniary gain to which I am legally entitled for bringing this information is small, while the loss which I should incur, if I fail, is* 1000 *drachmae* (*or four times the value of the slaves*). (2) *The fact that I have laid the information in my own name, proves that I am prompted by the personal motive of revenge alone. Content with that revenge, I am willing to waive all claim to the reward which the law in such cases allows the bringer of the information* (*viz. three-fourths of the valuation*).

1246 Ἀπολλόδωρος ὑπ' Ἀρεθουσίου, ἵνα δοκῇ μὴ φύσει πονηρὸς ὢν ταῦτα πράττειν, ἀλλ' ἀμυνόμενος τὸν ἀδικοῦντα.

Ὅτι μὲν οὐ συκοφαντῶν, ἀλλ' ἀδικούμενος καὶ ὑβριζόμενος ὑπὸ τούτων καὶ οἰόμενος δεῖν τιμωρεῖσθαι τὴν ἀπογραφὴν ἐποιησάμην, μέγιστον ὑμῖν ἔστω τεκμήριον ὦ ἄνδρες δικασταὶ τό τε μέγεθος τῆς ἀπογραφῆς, καὶ ὅτι αὐτὸς ἐγὼ ἀπέγραψα. οὐ γὰρ δήπου συκοφαντεῖν γε βουλόμενος ἀπέγραψα° ἂν πένθ' 1

° ἀπεγραψάμην S. ἀπέγραψα μὲν Dobree.

The court will now permit me to justify myself by shewing how ungratefully I have been dealt with by my opponents and by relating, so far as time permits, the most atrocious and flagrant of all the wrongs which they have inflicted upon me.

1. *οἰόμενος δεῖν τιμωρεῖσθαι*] 'To avoid the fatal charge of *sycophantia*, any one prosecuting a fellow-citizen for some public offence endeavoured to shew that he had private and personal grounds of enmity against the accused; and if he succeeded in proving this, it was considered the most natural and reasonable thing in the world that he should endeavour to satisfy his hatred by becoming public prosecutor.' Wilkins' *Light of the World* p. 30 (where a reference is made to Lewes' *History of Philosophy* I 108). For illustrations of the Greek view of the reasonableness of revenge, see note on Isocr. ad Dem. § 26.

τὸ μέγεθος] 'the size,' 'the amount,' a neutral word, here meaning probably 'the *small* amount,' 'the *paltriness* of the specification.' Herod. II 74, *μεγάθεϊ μικρός*. The sum of two-and-a-half minae seems to refer to the value of the two slaves taken together (Boeckh, *Publ. Econ.* I chap. xiii p. 96 Lamb). Reiske, however, explains *τὸ μέγεθος τῆς ἀπογραφῆς*: *magnitudo mulctae mihi luendae, si causa cadam.*

ἀπογραφῆς] 'specification,' or 'inventory,' of property, used especially of information as to State property alleged to be unlawfully held by a private person. Harpocration, *ἀπογραφή· ὅταν τις λέγῃ τινα ἔχειν τι τῶν τῆς πόλεως, ἀπογραφὴν ποιεῖται ὁ ἐναγόμενος, δηλῶν πόθεν ἔχει τὰ χρήματα καὶ πόσα ταῦτα εἴη...τί δὲ ἦν τὸ κινδύνευμα τῷ τὴν ἀπογραφὴν ποιουμένῳ, ἐν τῷ Δημοσθένους πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων, εἰ γνήσιος, δῆλον γίγνεται.* Hesychius, *ἀπογραφή· ἀρίθμησις· ἢ ἡ γινομένη μήνυσις.* Cf. Or. 22 (Androt.) § 54, *τὸ τὰ χωρία δημεύειν καὶ τὰς οἰκίας, καὶ ταῦτ' ἀπογράφειν*, 37 § 7, 40 § 22. Meier and Schömann, pp. 302—312 Lips.

οὐ δήπου..ἀπέγραψα ἂν..ἀνδράποδα] 'I should not have scheduled slaves worth two minas and a half.' Kennedy.

ἡμιμναίων ἄξια ἀνδράποδα, ὡς αὐτὸς ὁ ἀμφισβητῶν
τετίμηται αὐτά, ἐκινδύνευον δ' ἂν περί τε χιλίων
δραχμῶν καὶ τοῦ μηδέποτε μηδένα αὖθις ὑπὲρ ἐμαυτοῦ
γράψασθαι· οὐδ' αὖ οὕτως ἄπορος ἦν οὐδ' ἄφιλος[f],
2 ὥστ' οὐκ ἂν ἐξευρεῖν τὸν ἀπογράψοντα· ἀλλὰ τῶν
ἐν ἀνθρώποις ἁπάντων ἡγησάμενος δεινότατον εἶναι,
ἀδικεῖσθαι μὲν αὐτός, ἕτερον δ' ὑπὲρ ἐμοῦ τοῦ ἀδικουμένου
τοὔνομα παρέχειν, καὶ εἶναι ἄν τι τούτοις τοῦτο
τεκμήριον, ὁπότε ἐγὼ λέγοιμι τὴν ἔχθραν πρὸς ὑμᾶς,
ὡς ψεύδομαι (οὐ γὰρ ἄν ποτε ἕτερον ἀπογράψαι,
εἴπερ ἐγὼ αὐτὸς ἠδικούμην), διὰ μὲν ταῦτ' ἀπέγραψα.
ἀπογράψας δὲ ἐὰν ἀποδείξω τἀνδράποδα Ἀρεθουσίου
ὄντα, οὗπερ ἐγέγραπτο εἶναι, τὰ μὲν τρία μέρη, ἃ ἐκ 1247

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[f] οὐδ' ἄφιλος Bekker. *om.* Z *cum* S.

χιλίων δραχμῶν] The fine inflicted on a prosecutor who in a public accusation failed to obtain a fifth part of the votes. This fine was attended by complete or partial disfranchisement. Hyper. Eux. 44, 5 *τὸν ἐγχειρήσαντα συκοφαντεῖν αὐτοὺς* (in an *ἀπογραφή*) *εὐθὺς ἠτίμωσαν τὸ πέμπτον μέρος τῶν ψήφων οὐ μεταδόντες*, Lysias 18 § 14 *χιλίαις δραχμαῖς ἐζημιώσατε τὸν βουλόμενον τὴν ἡμετέραν γῆν δημοσίαν ποιῆσαι.* Or. 58 (Theocrin.) § 6 *ἐὰν ἐπεξιὼν τις μὴ μεταλάβῃ τὸ πέμπτον μέρος τῶν ψήφων, χιλίας ἀποτίνειν, κἂν μὴ ἐπεξίῃ, χιλίας ἑτέρας, ἵνα μὴ συκοφαντῇ μηδεὶς μήτ' ἄδειαν ἔχων ἐργολαβῇ καὶ καθυφιῇ τὰ τῆς πόλεως.*

μηδέποτε—γράψασθαι] Lipsius (in note 320 on p. 311 of Meier and Schömann) regards this as an exaggeration. Cf. Hager in *Journ. of Philology* VI 15.

ὥστ' οὐκ ἂν ἐξευρεῖν] A mixed phrase between *ὥστ' οὐκ ἂν ἐξεῦρον* and *ὥστε μὴ ἐξευρεῖν.* The use of *ἂν* with *ὥστε* and the infinitive is rare, but it occurs when a mere contingent result is described. P.]

2. *αὐτός* is kept in the nom., referring back to *ἡγησάμενος*, in spite of the interposition of *δεινότατον εἶναι*, which leads us to expect an acc. with the infinitive *ἀδικεῖσθαι* (Shilleto on Fals. Leg. § 337).

τοὔνομα παρέχειν] 'to lend his name,' i.e. allow himself to be used as a cat's paw.

τεκμήριον—ὡς ψεύδομαι] My opponents might have said, 'If you *really* had a quarrel against us, why did you not file the action against us in your own name?' Perhaps we should read: *οὐ γὰρ ἂν ἐὰν ποτε ἕτερον ἀπογράψαι*, 'for I never should have allowed another, &c.' P.]

τὰ τρία μέρη] Three-fourths of the valuation was allowed by law to be paid to the individual who brought the action. Boeckh, *See-urkunden* p. 535 (*C. I. A.* II

τῶν νόμων τῷ ἰδιώτῃ τῷ ἀπογράψαντι γίγνεται, τῇ πόλει ἀφίημι, αὐτῷ δ' ἐμοὶ τετιμωρῆσθαι ἀρκεῖ μόνον. εἰ μὲν οὖν μοι ἦν ἱκανὸν τὸ ὕδωρ διηγήσασθαι πρὸς 3 *ὑμᾶς ἐξ ἀρχῆς*[g]*, ὅσ' ἀγαθὰ πεπονθότες ὑπ' ἐμοῦ οἷά με εἰργασμένοι εἰσίν, εὖ οἶδ' ὅτι ὑμεῖς τ' ἂν μοι ἔτι μᾶλλον συγγνώμην εἴχετε τοῦ ὀργίζεσθαι αὐτοῖς, τούτους τ' ἀνοσιωτάτους ἀνθρώπων ἡγήσασθε εἶναι· νῦν δ' οὐδὲ διπλάσιόν μοι τούτου ὕδωρ ἱκανὸν ἂν γένοιτο. τὰ μὲν οὖν μέγιστα καὶ περιφανῆ τῶν ἀδικημάτων, καὶ ὁπόθεν ἡ ἀπογραφὴ αὕτη γέγονεν, ἐρῶ πρὸς ὑμᾶς, τὰ δὲ πολλὰ ἐάσω.*

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[g] A (Bl.). *τὰ ἐξ ἀρχῆς vulgo* (Dind.).

2, 811 *c* 120) *ἀφεῖκε* Πολύευκτος *ὁ ἀπογράψας τὰ ἐκ τῶν νόμων καὶ τῆς ἀπογραφῆς Σωπόλιδι τὰ γιγνόμενα εἰς τὴν ἐπιτιμίαν* ('penalty'). It has been inferred from the inscription just quoted that this regulation was not confined (as Boeckh supposed) to concealed property, which was discovered by the informer. (*Publ. Econ.* III chap. xiv p. 395 Lewis², p. 512 Lamb.) Cf. Meier and Schömann p. 312, note 321 Lipsius, and Hermann, *Public Antiquities* § 136, 14 = *Staatsalt.* p. 553 n. 3 Thumser.—*τῷ ἰδιώτῃ τῷ ἀπογράψαντι*, 'to the individual informer' Kennedy. *ὁ ἰδιώτης* is here contrasted with *ἡ πόλις*.

ἀφίημι] *remitto atque condono*, Reiske.

3. *εἰ ἦν ἱκανὸν...ὑμεῖς ἂν συγγνώμην εἴχετε...νῦν δ' οὐδὲ διπλάσιον...ἱκανὸν ἂν γένοιτο*] The student will be careful to distinguish between the two forms of conditional sentences here combined. 'If the time allowed *had been* sufficient, you *would have* made allowance for me..., but, as the case is, even twice as much time *would* not suffice.' Goodwin, *Greek Moods* § 49, 2 and § 50, 2 (§§ 410, 455 ed. 1889).—On *τὸ ὕδωρ* cf. Or. 54 § 36.

ὅσα...οἷα] 'What benefits they have received from me and what a requital they have paid me for them,' or, better, 'the return they have given me for all the benefits I have conferred upon them.' For this idiomatic use of the double relative, cf. Soph. El. 751 *οἷ' ἔργα δράσας οἷα λαγχάνει κακά.*

§§ 4—9. *My opponent's brother Nicostratus, was my neighbour in the country, and, being about the same age, we were thrown much together and became more and more intimate with one another. I granted him whatever he asked of me, and he on his part was of some service to me in taking charge of my property whenever I was abroad on public or private business.*

On one of these occasions, when I had left him in charge, three of his servants ran away from him. While pursuing them, he was taken prisoner by a privateer, and sold as a slave. On my return, I was told of his

4 Νικόστρατος γὰρ οὑτοσὶ[h] ὦ ἄνδρες δικασταί, γείτων μοι ὢν ἐν ἀγρῷ καὶ ἡλικιώτης, γνωρίμως μέν μοι εἶχε καὶ πάλαι, ἐπειδὴ δ' ἐτελεύτησεν ὁ πατὴρ καὶ ἐγὼ ἐν ἀγρῷ κατῴκουν, οὗπερ καὶ νῦν οἰκῶ, καὶ μᾶλλον ἀλλήλοις ἤδη ἐχρώμεθα, διὰ τὸ γείτονές τε εἶναι καὶ ἡλικιῶται. χρόνου δὲ προβαίνοντος καὶ πάνυ οἰκείως

unhappy plight by one of his brothers, Deinon, and I supplied the latter with travelling expenses and thus enabled him to go to the rescue of Nicostratus. The latter, on his return, informed me that he had been ransomed for a considerable sum. He appealed to me with tears in his eyes and pointed to the marks left by the galling fetters (though he is now ashamed enough of those scars that are the memorials of his slavery). He thus succeeded in inducing me to forgive him the three minae, which I had advanced for his brother's travelling expenses, and to contribute, as a free gift towards the twenty-six minae required for the ransom, the sum of ten minae which I raised on the security of some of my property.

4. Νικόστρατος γὰρ] γὰρ is almost invariably used at the beginning of narratives like the present; the English idiom generally requires us to omit it in translation, though we may sometimes render it, 'Well, then,' 'to proceed, then.' Cf. Or. 55 § 10 τοῦ γὰρ χωρίου κ.τ.λ., 27 § 4.

γνωρίμως εἶχε] γνώριμος is a much weaker word than φίλος, as has already been noticed, on Or. 45 § 73. The gradually increasing intimacy between Apollodorus and Nicostratus is well expressed by the successive phrases (1) γνωρίμως εἶχε, (2) μᾶλλον ἀλλήλοις ἐχρώμεθα, (3) πάνυ οἰκείως διεκείμεθα of the present section, and (4) φίλος ἀληθινὸς of § 12. Cf. 33 § 5 γνωρίμως ἔχω...πάνυ οἰκείως χρῶμαι.

ἐτελεύτησεν ὁ πατὴρ] The death of Pasion took place B.C. 370 (Or. 46 § 13).

κατῴκουν...οἰκῶ] If any distinction is to be drawn, the compound verb should be rendered 'I settled' and the simple 'I live'; but it is more likely that οἰκῶ is intended as a virtual repetition of the preceding κατῴκουν. In such cases it is unnecessary to repeat the preposition, e.g. Eur. Bacc. 1065 κατῆγεν ἦγεν ἦγεν εἰς μέλαν πέδον and Orest. 181 διοιχόμεσθ', οἰχόμεθα, where Porson remarks that, when a verb is repeated, it is generally used first in its compound, then in its simple form. Or. 36 § 4 προσώφειλε...ὤφειλε, 33 § 18 ἐξοίσειν...ἐνήνοχεν.

μᾶλλον...ἡλικιῶται] 'We grew more and more familiar with one another from being not only neighbours but also of the same age.' Or. 55 § 23 ad fin. and Or. 35 § 6 ἐπιτήδειοί μοί εἰσι καὶ χρώμεθ' ἀλλήλοις ὡς οἷόν τε μάλιστα.

χρόνου προβαίνοντος] Soph. Phil. 285 ὁ μὲν χρόνος δὴ διὰ χρόνου προὔβαινέ μοι.

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[h] Bekker. *om.* Z *cum* S. (οὗτος Ar.)

διεκείμεθα, καὶ ἐγώ θ' οὕτως οἰκείως διεκείμην πρὸς
τοῦτον, ὥστ' οὐδενὸς πώποτε ὧν ἐδεήθη οὗτος ἐμοῦ
ἀπέτυχεν, οὗτός τ' αὖ ἐμοὶ οὐκ ἄχρηστος ἦν πρὸς τὸ
ἐπιμεληθῆναι καὶ διοικῆσαι, καὶ ὁπότε ἐγὼ ἀποδημοίην
ἢ δημοσίᾳ τριηραρχῶν ἢ ἰδίᾳ κατ' ἄλλο τι, κύριον τῶν
ἐν ἀγρῷ τοῦτον ἁπάντων κατέλειπον. συμβαίνει δή 5
μοι τριηραρχία περὶ Πελοπόννησον, ἐκεῖθεν δ' εἰς
Σικελίαν ἔδει τοὺς πρέσβεις ἄγειν, οὓς ὁ δῆμος ἐχειροτόνησεν.
ἡ οὖν ἀναγωγὴ διὰ ταχέων ἐγίγνετό μοι.
ἐπιστέλλω δὴ αὐτῷ ὅτι αὐτὸς μὲν ἀνῆγμαι καὶ οὐχ
1248 οἷός τ' εἴην[1] οἴκαδε ἀφικέσθαι, ἵνα μὴ κατακωλύοιμι

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[1] Bekker. ἦν Z *cum* SrA *et* Q (*prima manu*).

δημοσίᾳ τριηραρχῶν] This reference to the speaker's public services is dexterously inserted to ingratiate him with his audience, as well as to lead up to the subsequent narrative *συμβαίνει δή μοι τριηραρχία*.—On some of the later trierarchal services of Apollodorus cf. note on Or. 36 § 41.

5. *τριηραρχία περὶ Πελοπόννησον κ.τ.λ.*] The date of this event, if it could be determined with certainty, would assist materially in determining the date of the delivery of the speech. It seems very probable that this trierarchy should be identified with that referred to in Or. 45 § 3, which, as we have already seen, may be placed in the year 368 B.C. See *Introd.* p. lvii.

διὰ ταχέων] Thuc. I 80 *διὰ ταχέων ἐλθεῖν*, Isocr. 14 § 3 *διὰ βραχέων ἂν ἐποιησάμεθα τοὺς λόγους* followed by *ἀναγκαῖον διὰ μακροτέρων δηλῶσαι* (Kühner *Greek Grammar* II § 434, 1. d). Or. 50 (Polycl.) § 12 *ἀναγόμενος διὰ τάχους*, 47 (Euerg.) § 49.

ἀνῆγμαι] *ἀνάγεσθαι* is constantly contrasted with *κατάγεσθαι*; the latter word occurs in § 6 *κατήχθη εἰς Αἴγιναν*. The verb, with its corresponding substantive *ἀναγωγή*, implies a notion that ships in the open sea or, as we say, on the '*high* seas,' are at a greater elevation than vessels in harbour. So in Thuc. I 48 and VIII 10 *μετέωρος* is an epithet of ships at sea. Similar references to this familiar optical illusion may be noted in Milton's *Paradise Lost* II 636, *Far off at sea a fleet descried Hangs in the clouds*, and in Ruskin's *thymy slopes of down overlooked by the blue line of lifted sea* (*Modern Painters* III iv 14 § 51).

ἐπιστέλλω ... ὅτι ἀνῆγμαι καὶ οὐχ οἷός τ' εἴην] The historic present *ἐπιστέλλω* being virtually a secondary tense has the optative *εἴην* in the dependent clause. For the combination of the indicative *ἀνῆγμαι* with the optative *εἴην*, we may compare Or. 59 (Neaer.) § 81 *λέγων ὅτι οὐκ ᾔδει...ἀλλ' ἐξαπατηθείη*, 47 (Euerg.) § 50 *λέγων ὅτι...δεῖ*

τοὺς πρέσβεις· τούτῳ δὲ προσέταξα ἐπιμελεῖσθαί τε
τῶν οἴκοι καὶ διοικεῖν, ὥσπερ καὶ ἐν τῷ ἔμπροσθεν
6 χρόνῳ. ἐν δὲ τῇ ἐμῇ ἀποδημίᾳ ἀποδιδράσκουσιν αὐτὸν
οἰκέται τρεῖς ἐξ ἀγροῦ παρὰ τούτου, οἱ μὲν δύο ὧν ἐγὼ
ἔδωκα αὐτῷ, ὁ δὲ εἷς ὧν αὐτὸς ἐκτήσατο. διώκων οὖν
ἁλίσκεται ὑπὸ τριήρους καὶ κατήχθη εἰς Αἴγιναν, καὶ
ἐκεῖ ἐπράθη. ἐπειδὴ δὲ κατέπλευσα ἐγὼ τριηραρχῶν,
προσέρχεταί μοι Δείνων ὁ ἀδελφὸς ὁ τούτου, λέγων
τήν τε τούτου συμφοράν, αὐτός τε ὅτι δι' ἀπορίαν
ἐφοδίων οὐ πεπορευμένος εἴη ἐπὶ τοῦτον πέμποντος
τούτου αὐτῷ[j] ἐπιστολάς, καὶ ἅμα λέγων πρὸς ἐμὲ ὡς
7 ἀκούοι αὐτὸν δεινῶς διακεῖσθαι. ἀκούσας δ' ἐγὼ ταῦτα
καὶ συναχθεσθεὶς ἐπὶ τῇ ἀτυχίᾳ τῇ τούτου, ἀποστέλλω[k]
τὸν Δείνωνα τὸν ἀδελφὸν αὐτοῦ εὐθὺς ἐπὶ
τοῦτον, δοὺς ἐφόδιον αὐτῷ τριακοσίας δραχμάς. ἀφικόμενος
δ' οὗτος καὶ ἐλθὼν ὡς ἐμὲ πρῶτον[l], ἠσπάζετο

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[j] αὐτῷ Z.

[k] A (Bl. '*praecessit* πέμποντος'). πέμπω *vulgo* (Dind.); τούτου Z *cum* FSQ. αὐτοῦ A r. '*Fortasse verba* τὸν ἀδελφὸν τούτου *delenda sunt*' Sauppe.

[l] A (Bl.). ὡς ἐμὲ πρῶτον μὲν *vulgo* (Dind.).

...καὶ κελεύοι, ib. 68 ὡς εἶχον... καὶ...τελευτήσειεν, and esp. 27 (Aphob. A) § 19 ἐτόλμα...λέγειν ὡς χρέα τε παμπολλὰ ἐκτέτικεν... καὶ ὡς πολλὰ τῶν ἐμῶν λάβοιεν. The optative of the perfect and future was less familiar than the optative of the other tenses. It is apparently for this reason that the indicative of the perfect or the future was often retained after secondary tenses, even when the present or the aorist was changed from the indicative to the optative. Goodwin, *Moods and Tenses* § 70, 2, R 2 (§ 672 ed. 1889). The MSS appear to have been misled by the indicative ἀνῆγμαι into writing ἦν instead of εἴην.

κατακωλύοιμι] Or. 33 § 13 τοῦ εἰς Σικελίαν πλοῦ διὰ τοῦτον κατεκωλύθη.

6. παρὰ τούτου] 'From the defendant's house.' — ὧν ἐγὼ κ.τ.λ. i.e. 'of the number of those whom I had given him.'

κατέπλευσα τριηραρχῶν] 'When my voyage as trierarch came to an end.' Or. 50 § 12 κατέπλευσα τοὺς πρέσβεις ἄγων. For the preposition in κατέπλευσα cf. κατήχθη *infra*, and see note on ἀνῆγμαι *supra* § 5.

ἐπὶ τοῦτον] 'In quest of him,' 'to fetch him back.'

*καὶ ἐπῄνει ὅτι παρέσχον τὰ ἐφόδια τῷ ἀδελφῷ αὐτοῦ,
καὶ ὠδύρετο τὴν αὑτοῦ συμφοράν, καὶ κατηγορῶν ἅμα
τῶν ἑαυτοῦ οἰκείων ἐδεῖτό μου βοηθῆσαι αὐτῷ, ὥσπερ
καὶ ἐν τῷ ἔμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς
φίλος· καὶ κλάων*[m] *ἅμα, καὶ λέγων ὅτι ἓξ καὶ εἴκοσι
μνῶν λελυμένος εἴη, εἰσενεγκεῖν αὐτῷ τι ἐκέλευέ με
εἰς τὰ λύτρα. ταῦτα δ' ἐγὼ ἀκούων καὶ ἐλεήσας* 8
*τοῦτον, καὶ ἅμα ὁρῶν κακῶς διακείμενον καὶ δεικνύοντα
ἕλκη ἐν ταῖς κνήμαις ὑπὸ δεσμῶν, ὧν ἔτι τὰς
οὐλὰς ἔχει, καὶ ἐὰν κελεύσητε*[n] *αὐτὸν δεῖξαι, οὐ μὴ*

[m] Bekk. *cum* A r. κλαίων Z *cum* S.

[n] κελεύητε *scribendum putat* Bl.

7. ἐπῄνει] Not 'praised,' but, rather, 'thanked.' Cf. § 13, ἐπαινέσας με ἐκέλευσε κ.τ.λ. So also in Ar. Ranae 538 κάλλιστ', ἐπαινῶ, 'thank you!' where however the notion of declining the offer is also involved.

ἀληθινὸς φίλος] ἀληθινὸς is the Latin *verus;* ἀληθὴς *verax.* 'We may affirm of the ἀληθὴς that he fulfils the promise of his lips, but the ἀληθινὸς the wider promise of his name' (Trench, *Synonyms of the New Testament* § VIII). See also Donaldson, *New Cratylus* § 258 and Kühner *Greek Gr.* I § 334. 7. [ἀληθινὸς is 'genuine,' as χρυσός, ἀρετή, &c.; ἀληθὴς is more directly contrasted with ψευδής, as ἀληθὴς λόγος. But the distinction is not always observed. Euripides has ἀληθὴς φίλος Suppl. 867, and σαφὴς φίλος is not unusual in the same sense. P.] Cf. note on Or. 40 § 20.

κλάων] 'In Tragedy κλαίω and κλάω; in Aristophanes κλάω prevails, in Attic prose κλαίω and κλάω, the latter gaining ground.' Veitch, *Greek Verbs.*

εἴκοσι μνῶν] Aristotle, Eth. v 10 § 9, gives as an example of νομικὸν δίκαιον, conventional right, τὸ μνᾶς λυτροῦσθαι, the right of every man to claim his freedom on payment of one mina,—perhaps referring only to slaves. P.]

λελυμένος] Isaeus Or. 5 § 44 οὐδ' ἐκ τῶν πολεμίων ἐλύσω οὐδένα, Lysias Or. 19 § 59, Dem. Fals. Leg. § 169.

ἐκέλευε] 'urged me,' 'asked me,'—less strong than the aorist ἐκέλευσε (inf. § 9). The impf. of this verb is often found in passages where we should expect the aorist, especially in Herodotus and Thucydides. It may be regarded as used in a *tentative* sense, in so far as the result of the request is uncertain.

8. ἕλκη ἐν ταῖς κνήμαις] Ar. Eq. 907, τἀν τοῖσιν ἀντικνημίοις ἑλκύδρια περιαλείφειν.

οὐ μὴ θελήσῃ] 'There is little chance of his consenting.'

Nicostratus would naturally refuse to display the scars left by the galling fetters: to do so would be to confess that he had

θελήσῃ[o], *ἀπεκρινάμην αὐτῷ ὅτι καὶ ἐν τῷ ἔμπροσθεν* 1249
χρόνῳ εἴην αὐτῷ φίλος ἀληθινός, καὶ νῦν ἐν τῇ
συμφορᾷ βοηθήσοιμι[p] *αὐτῷ, καὶ τάς τε τριακοσίας,*
ἃς τῷ ἀδελφῷ[q] *ἔδωκα ἐφόδιον ὅτε ἐπορεύετο ἐπὶ*
τοῦτον, ἀφιείην[r] *αὐτῷ, χιλίας τε δραχμὰς ἔρανον*
9 *αὐτῷ εἰς τὰ λύτρα εἰσοίσοιμι. καὶ τοῦτο οὐ λόγῳ*

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[o] *θελήσηι* S. *'θελήσῃ* Z. *ἐθελήσῃ* Bekker. *ἐθελήσει* Dobree (Dind.).
[p] G. H. Schaefer. *βοηθήσαιμι codices.*
[q] *+ αὐτοῦ vulgo* (Dind.). *om.* A (Bl.).
[r] *scripsit* Bl. *ἀφίην* SBQ, *ἀφείην* A (Dind.).

incurred the disgrace of having been sold as a slave.

With *οὐ μὴ* the subjunctive (especially in the aorist tense) is commoner than the future indicative, and is indeed the reading of the MSS in the present passage. The indicative was proposed by Dobree in accordance with the canon of Dawes which declared the first aorist subjunctive active and middle a solecism after *οὐ μὴ* and *ὅπως μή*. Goodwin, *Moods and Tenses* p. 79, and § 89, 1 (§§ 295, 364, ed. 1889).

ἀπεκρινάμην] The Attic form corresponding to *ὑπεκρινάμην* in Herodotus and *ἀπεκρίθην* in late Greek, e.g. in the New Testament (Winer's Gr. p. 327, ed. Moulton). Cf. Rutherford's *New Phrynichus* p. 186.

ὅτι ἐν τῷ ἔμπροσθεν χρόνῳ εἴην φίλος, καὶ νῦν βοηθήσοιμι] 'That I *had been* his true friend formerly, and *would* assist him now.' The opt. *εἴην* represents not the present or future but the imperfect of direct discourse; while the future optative *βοηθήσοιμι* corresponds to the future ind. of *oratio recta*. 'The fut. opt. in Classic Greek is used only in indirect discourse after secondary tenses to represent a fut. indic. of the direct discourse' Goodwin, *Moods and Tenses* § 26 (§ 128 ed. 1889). *βοηθήσαιμι* is wrong, because it would represent *ἐβοήθησα* of the *oratio recta* and would therefore be inconsistent with *νῦν*.—Similarly below, *εἰσοίσοιμι* (contrasted with *ἀφείην*) represents the fut. indic. of direct discourse. Cf. 36 § 6 *ἔσοιτο*, and Rehdantz, *index* I, s.v. *optativus*.

ἀφιείην] Present Opt. Act. as in 55 § 18. Fals. Leg. p. 394 § 171 *ὅσα...ἀφῆκα χρήματα καὶ δωρειὰν ἔδωκα.*

ἔρανον κ.τ.λ.] 'I would contribute 1000 drachmae towards his ransom,' i.e. 10 minae out of the total amount of 26 minae mentioned in § 7 ad fin. On *ἔρανος* cf. Hermann, *Privatalt.* § 65, 13, esp. p. 74^4 of *Rechtsalt.* ed. Thalheim. 'L'*éranos*, dit très-exactement M. Foucart (*des associations religieuses chez les Grecs*, Paris, 1873, p. 143), n'était ni un don, ni un secours, mais un prêt qu'il fallait rembourser' (Dareste).

9. *οὐ λόγῳ μὲν ὑπισχνούμην, ἔργῳ δ' οὐκ ἐποίησα*] Cf. de Corona § 179 *οὐκ εἶπον μὲν ταῦτα*

μὲν ὑπισχνούμην[s], ἔργῳ δ' οὐκ ἐποίησα, ἀλλ' ἐπειδὴ οὐκ ηὐπόρουν[t] ἀργυρίου, διὰ τὸ διαφόρως ἔχειν τῷ Φορμίωνι καὶ ἀποστερεῖσθαι ὑπ' αὐτοῦ τὴν οὐσίαν ἥν μοι ὁ πατὴρ κατέλιπε, κομίσας ὡς Θεοκλέα τὸν τότε τραπεζιτεύοντα ἐκπώματα καὶ στέφανον χρυσοῦν, ἃ παρ'[u] ἐμοὶ ἐκ τῶν πατρῴων ὄντα ἐτύγχανεν, ἐκέλευσα δοῦναι τούτῳ χιλίας δραχμάς, καὶ τοῦτο ἔδωκα δωρειὰν αὐτῷ τὸ ἀργύριον, καὶ ὁμολογῶ δεδωκέναι. ἡμέραις δ' οὐ πολλαῖς ὕστερον προσελθών μοι κλάων[v] ἔλεγεν, ὅτι οἱ ξένοι ἀπαιτοῖεν αὐτόν[w], οἱ

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[s] A (Bl.). ὑπεσχόμην *vulgo* (Dind.).

[t] εὐπόρουν Z.

[u] Z, Bekker st., *et* Bl. *cum* SBQ. ἅπερ A r (Dind.).

[v] Bekk. *cum* r A. κλαίων Z.

[w] αὐτὸν Z.

οὐκ ἔγραψα δέ, οὐδ' ἔγραψα μὲν οὐκ ἐπρέσβευσα δέ, οὐδ' ἐπρέσβευσα μὲν οὐκ ἔπεισα δὲ τοὺς Θηβαίους. Kennedy neatly translates: 'nor did I content myself with mere words; but what I promised I performed.'

διαφόρως—τῷ Φορμίωνι] The context shews that the reference is to the estrangement between Apollodorus and Phormion shortly after the death of Pasion in 370 B.C.—τὴν οὐσίαν refers mainly to the banking-stock which forms the subject of Or. 36, the claim to which was not brought forward until some twenty years later.

ἃ παρ'—ἐτύγχανεν] 'Videtur tunc temporis divisio bonorum inter Apollodorum et fratrem (36 § 8) nondum facta fuisse.' Blass.

δωρειὰν] not as a loan, but as a free gift. Cf. 36 § 15.

§§ 10—13. *Not many days afterwards, he came once more and told me with tears in his eyes that the persons who had advanced the ransom were demanding payment of the remaining sixteen minae, and that the agreement required him to refund the money within thirty days, or, failing payment, to be liable for twice the amount. He could raise no money, he said, on the farm in my neighbourhood, as that property was already encumbered by a claim upon it on the part of his brother Arethusius; and he asked me to advance the remainder, as otherwise my former gifts would be thrown away, and himself carried off to prison as the lawful property of the ransomer. He further promised to collect the whole amount and to repay me. Accordingly, I raised the remaining sixteen minae on the security of my lodging-house, and lent him this sum for a year without interest.*

10. ἀπαιτοῖεν] ἀπαιτεῖν (cf. ἀπολαμβάνειν) is 'to ask for one's due,' 'to request repay-

δανείσαντες τὰ λύτρα, τὸ λοιπὸν ἀργύριον, καὶ ἐν ταῖς συγγραφαῖς εἴη τριάκονθ' ἡμερῶν αὐτὸν ἀποδοῦναι ἢ διπλάσιον ὀφείλειν, καὶ ὅτι τὸ χωρίον τὸ ἐν γειτόνων[x] μοι τοῦτο οὐδεὶς ἐθέλοι οὔτε πρίασθαι οὔτε τίθεσθαι·

[x] *τὸ ἐγγειτόνων* SAB, '*qua in scriptura est vestigium veteris orthographiae.*' Bl.

ment of what is one's own.' Andocides II § 22, *ἃ...ἀφείλεσθε, ταῦθ' ὑμᾶς, εἰ μὲν βούλεσθε, αἰτῶ, εἰ δὲ [μὴ] βούλεσθε, ἀπαιτῶ.* Or. 33 § 6 *οἱ χρῆσται κατήπειγον αὐτὸν ἀπαιτοῦντες*, and Or. 49 § 2.

So *ἀποδοῦναι* 'to pay what is due,' 'to make full payment of the sum borrowed.' Or. 20 (Lept.) §§ 11, 12 *χρήματα ἀπῄτουν* followed by *ἀποδοῦναι*. Or. 49 § 2 *οὐ μόνον οὐκ ἀπέδωκε χάριν ἀλλὰ καὶ τὸ δοθὲν ἀποστερεῖ με.* In Arist. Rhet. II 7 § 5, among the reasons which indicate the absence of real gratitude, we have *ὅτι ἀπέδωκαν ἀλλ' οὐκ ἔδωκαν* ('they merely returned the favour,' simply repaid a debt, and nothing more).

διπλάσιον ὀφείλειν] Or. 56 § 20. Cf. *Revue archéologique*, 1866 no. 11 (quoted by Dareste), *ἐὰν δὲ μὴ ἀποδιδῷ τὴν μίσθωσιν κατὰ τὰ γεγραμμένα ἢ μὴ ἐπισκευάζῃ, ὀφείλειν αὐτὸν τὸ διπλάσιον*, and the *stipulatio duplae* of Roman law.

τὸ χωρίον τὸ ἐν γειτόνων μοι] 'the property (or farm) in my immediate neighbourhood.' *ἐν γειτόνων* seems to be an elliptical phrase equivalent to *ἐν τοῖς τῶν γειτόνων* 'in my neighbours' lands,' 'in my own neighbourhood.' In early Greek there is probably no other instance of this phrase, and as *ἐκ γειτόνων* is not without example in the Attic Orators, it appears preferable to the reading in the text, which is obtained by Reiske from *τὸ ἐγγειτόνων*, found in three good MSS (SAB). *Inepte Reiskius*, says Dobree, who refers to Ar. Plut. 435 *ἡ καπηλὶς ἡκ τῶν γειτόνων*. For *ἐκ γειτόνων* cf. Lycurgus, (Leocrates) § 21 *οὐδὲ τὰ ὅρια τῆς χώρας αἰσχυνόμενος ἀλλ' ἐκ γειτόνων τῆς ἐκθρεψάσης αὐτὸν πατρίδος μετοικῶν* (cf. *e vicinia* and *exadversam* in the sense of *prope*). For *ἐν γειτόνων* we find no parallel earlier than Lucian, *φιλοψευδής* § 25 *ἐν γειτόνων δὲ ἡμῖν ᾤκει* and *convivium* § 22; also *Icaromenippus* § 8 *ἐν γειτόνων ἐστὶ τὰ δόγματα καὶ μὴ πολὺ διεστηκότα* ('their doctrines are next door to one another and differ but slightly').

πρίασθαι...ὠνεῖσθαι] The former is used as the aorist of the latter; *ὠνησάμην* (though common in Lucian and Plutarch) being never found in early Greek Prose, and perhaps once only in Greek comedy (in a doubtful fragment of Eupolis). The correct aorist and present are found side by side in § 21, *πρίαιντο* followed by *ὁ ὠνούμενος*; similarly in Lysias, Or. 7 § 4, *πριάμενος* occurs with *ὠνούμην* in the very next sentence. Cf. Rutherford's *New Phrynichus* p. 210.

τίθεσθαι] lit. 'to get security given you,' hence 'to lend money on security' of land, &c; 'to lend on mortgage,' as op-

ὁ γὰρ ἀδελφὸς ὁ Ἀρεθούσιος, οὗ τἀνδράποδ' ἐστὶ
ταῦτα ἃ νῦν ἀπογέγραπται, οὐδένα ἐῴη οὔτε ὠνεῖσθαι
οὔτε τίθεσθαι, ὡς ἐνοφειλομένου αὐτῷ ἀργυρίου. 'σὺ 11
οὖν μοι' ἔφη 'πόρισον τὸ ἐλλεῖπον τοῦ ἀργυρίου, πρὶν
τὰς τριάκονθ' ἡμέρας παρελθεῖν, ἵνα μὴ ὅ τε ἀποδέδωκα' ἔφη, 'τὰς χιλίας δραχμὰς, ἀπόλωνται, καὶ αὐτὸς
ἀγώγιμος γένωμαι. συλλέξας δ'' ἔφη '[τὸν][y] ἔρανον,
ἐπειδὰν τοὺς ξένους ἀπαλλάξω, σοὶ ἀποδώσω ὃ ἄν
1250 μοι χρήσῃς. οἶσθα δ'' ἔφη, 'ὅτι καὶ οἱ νόμοι κελεύουσι
τοῦ λυσαμένου ἐκ τῶν πολεμίων εἶναι τὸν λυθέντα,

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[y] *secl.* Bl. *coll.* § 12 *et Antiphon* II β 9.

posed to τίθεναι, lit. 'to give security,' 'to put in pledge,' 'to mortgage,' 'to borrow on security.'—Hermann, *Privatalt.* § 68, 15 = *Rechtsalt.* p. 100^4 Thalheim, quotes Dionys. de Isaeo 13 (Is. frag. 29), which illustrates the general sense of the present passage; δανειζομένῳ οὐδεὶς ἂν ἔδωκεν ἐπ' αὐτοῖς ἔτι πλέον οὐδὲν ἀποδεδωκότι τὰς μισθώσεις.

ἃ νῦν ἀπογέγραπται] 'which have been scheduled in the present suit (entered in the ἀπογραφή, or specification).'

ὡς ἐνοφειλομένου — ἀργυρίου] 'on the ground that money was due to himself thereon.' The property was already saddled with a debt due to Arethusius, to whom it was (in part at least) mortgaged. Arethusius, in other words, had a *lien* of money upon the property. In another speech delivered by Apollodorus, Or. 49 (Timoth.) § 45, we have the words ἐνεπισκήψασθαι ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἐνοφειλόμενον αὐτῷ τοῦτο τὸ ἀργύριον.

To contract a fresh loan on the security of property already mortgaged was of course fraudulent and was very properly forbidden. Cf. Bekker's *Anecdota* p. 259 μὴ ἐπιδανείσασθαι ἐπὶ τοῖς αὐτοῖς ἐνεχύροις. Or. 35 (Lacrit.) § 21 ἔστιν ἐν τῇ συγγραφῇ ὅτι ὑποτιθέασι ταῦτ' ἐλεύθερα (unencumbered) καὶ οὐδενὶ οὐδὲν ὀφείλοντες, καὶ ὅτι οὐδ' ἐπιδανείσονται ἐπὶ τούτοις παρ' οὐδένος. See also Or. 34 §§ 6, 50. Hermann, *Rechtsalt.* p. 103^4 Thalheim.

11. ἵνα μὴ ὅ τε ἀποδέδωκα, τὰς χιλίας δραχμὰς, ἀπόλωνται] i.e. ἵνα μὴ αἵ τε χίλιαι δραχμαί, ἃς ἀποδέδωκα, ἀπόλωνται. τὰς δραχμὰς is here attracted into the same case as the relative ὅ, the object of ἀποδέδωκα. Or. 20 (Lept.) § 18 οὐδεὶς ἐστ' ἀτελής, οὐδ' οὓς αὐτὸς ἔγραψε, τοὺς ἀφ' Ἁρμοδίου καὶ Ἀριστογείτονος. See Kühner, *Gk. Gr.* II § 556, 4.

ἀγώγιμος] 'liable to seizure.' Or. 23 (Aristocr.) § 11 ἄν τις αὐτὸν ἀποκτείνῃ, ἀγώγιμον εἶναι. Grote, *H. G.*, c. xi, II 310 n. (ed. 1862).

ἀπαλλάξω] Or. 34 § 22 τοὺς δανείσαντας ἀπήλλαξεν. See note on Or. 36 § 25.

τοῦ λυσαμένου...εἶναι τὸν λυθέντα] 'the laws enact that a

12 *ἐὰν μὴ ἀποδιδῷ τὰ λύτρα.' ἀκούων δ' αὐτοῦ ταῦτα καὶ δοκῶν οὐ ψεύδεσθαι, ἀπεκρινάμην αὐτῷ ἅπερ ἂν νέος τε ἄνθρωπος καὶ οἰκείως χρώμενος, οὐκ ἂν νομίσας ἀδικηθῆναι, ὅτι 'ὦ Νικόστρατε, καὶ ἐν τῷ πρὸ τοῦ*[z] *σοι χρόνῳ φίλος ἦν ἀληθινός, καὶ νῦν ἐν ταῖς συμφοραῖς σοι*[a]*, καθ' ὅσον ἐγὼ ἐδυνάμην, βεβοήθηκα. ἐπειδὴ δ' ἐν τῷ παρόντι οὐ δύνασαι πορίσαι ἅπαντα τὰ χρήματα, ἀργύριον μέν μοι*[b] *οὐ πάρεστιν, οὐδ' ἔχω οὐδ' αὐτός, τῶν δὲ κτημάτων σοι τῶν ἐμῶν κίχρημι ὅ*

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[z] Bekker. *πρὸ τούτου* Z *cum* SFQ.
[a] A (Bl. *coll.* § 8 *αὐτῷ*). *οὐ* S. *σου vulgo* (Dind.).
[b] A (Bl.). *ἐμοὶ vulgo* (Dind.).

person ransomed from the enemy shall be the property of the ransomer, if the former fail to pay the redemption money.' Hermann, *Rechtsalt.* ed. Thalheim p. 20^4 note 7, and p. 32^4 note 7.

12. *ἅπερ ἂν*] sc. *ἀποκρίναιτο.*

οὐκ ἂν νομίσας ἀδικηθῆναι] i.e. *οὐ νομίσας ἀδικηθῆναι ἄν.* *ἂν* is often separated from its verb by such words as *οἶμαι, δοκῶ, οἶδα, νομίζω.* Xen. Cyrop. VIII 7 § 25 *ἡδέως ἂν μοι δοκῶ κοινωνῆσαι*, Goodwin, *Moods and Tenses*, § 42, 2, p. 62 (§ 220, ed. 1889). This is most frequently the case when *ἂν* is closely attracted to an emphatic negative, e.g. Or. 36 § 49 *οὐ γὰρ ἄλλο γ' ἔχοις οὐδὲν ἂν ποιῆσαι.*

ὅτι ὦ Νικόστρατε, κ.τ.λ.] *ὅτι*, which usually introduces an indirect construction, is here followed by *oratio recta*, and need not be translated. Xen. Cyrop. VII 3 § 3 *ἀπεκρίνατο ὅτι, ὦ δέσποτα, οὐ ζῇ*, Goodwin, *Moods and Tenses*, § 79 (§ 711 ed. 1889).

ἐπειδὴ...οὐ δύνασαι κ.τ.λ.] G. H. Schaefer suggests *ἐπειδὴ δ' οὐ δύναμαι* (for *δύνασαι*) *πορίσαι...ἀργύριον γὰρ* (for *μὲν*) *ἐμοὶ οὐ πάρεστιν...τῶν* (*om.* *δὲ*) *κτημάτων...κίχρημι ὅ τι βούλει.* He holds that this reply suits the request of Nicostratus in § 11, *πόρισον τὸ ἐλλεῖπον τοῦ ἀργυρίου*, better than the manuscript reading. The proposed alteration does not, however, commend itself as conclusive; indeed, the emphatic pronoun *ἐμοί*, and the words *οὐδ' ἔχω οὐδ' αὐτός*, are more appropriate as a contrast to the *second* person *δύνασαι* than to the proposed substitution *δύναμαι.* The sense of the text is simply this: 'inasmuch as you are at present unable to pay the whole of the debt, although I have no money by me, nor indeed have I any at all (e.g. at my banker's) any more than yourself, I freely grant you the loan of any part of my property: you may mortgage it for the remainder of your debt and have the use of the money for a year without interest.'

κίχρημι] here, as elsewhere, of a friendly loan, *commodare*, as contrasted with *δανείζω*, which τι βούλει, θέντα τοῦ ἐπιλοίπου[c] ἀργυρίου ὅσου[d] ἐνδεῖ σοι, ἐνιαυτὸν ἀτόκῳ χρῆσθαι τῷ ἀργυρίῳ καὶ ἀποδοῦναι τοῖς ξένοις. συλλέξας δ' ἔρανον, ὥσπερ αὐτὸς φῄς, λῦσαί μοι.' ἀκούσας δ' οὗτος ταῦτα καὶ ἐπαινέσας 13 με, ἐκέλευσε τὴν ταχίστην πρᾶξαι, πρὶν ἐξήκειν τὰς ἡμέρας ἐν αἷς ἔφη δεῖν τὰ λύτρα καταθεῖναι. τίθημι οὖν τὴν συνοικίαν ἑκκαίδεκα μνῶν Ἀρκέσαντι Παμ-

[c] λοιποῦ A, '*sed cf.* 59 § 31—' Blass.

[d] Bl. *coll.* 59 § 31 οὗ. ὅσον *vulgo* (Dind.).

is generally used of a money-lender's loan on interest, *mutuo dare.* Or. 49 (Timoth.) § 23 *στρώματα καὶ ἱμάτια καὶ φιάλας ἀργυρᾶς δύο...ἔχρησε, καὶ τὴν μνᾶν τοῦ ἀργυρίου, ἣν ἐδανείζετο, ἐδάνεισεν*, where, in the very next section, *ἐδανείσατο* is applied to the furniture as well as to the money; *τὰς φιάλας... ἃς ᾐτήσατο ὅτεπερ καὶ τὰ στρώματα καὶ τὴν μνᾶν τοῦ ἀργυρίου ἣν ἐδανείσατο.* Fals. Leg. p. 394 *ἔχρησα τἀργύριον.*

θέντα κ.τ.λ.] sc. *θεῖναί τι* (*τῶν κτημάτων*) *τοῦ ἀργυρίου καὶ χρῆσθαι κ.τ.λ.* For the genitive (of price) cf. *infra* § 13 *τίθημι τὴν συνοικίαν ἑκκαίδεκα μνῶν.* (For numerous instances of gen. after words like *ὠνεῖσθαι, πωλεῖν, περιδίδοσθαι*, see Kühner, II § 418, 6 a.)—*ὅσου ἐνδεῖ* sc. 16 minae, Apollodorus having already (§ 8 fin.) provided 10 out of the 26 minae (§ 7 fin.).

συλλέξας ἔρανον] Mid. § 184 *ἐγὼ νομίζω πάντας ἀνθρώπους ἐράνους φέρειν παρὰ τὸν βίον αὑτοῖς, οὐχὶ τούσδε μόνους οὓς συλλέγουσί τινες κ.τ.λ.* Cf. Antiphon, p. 117, 19. P.]

λῦσαί μοι] sc. *τὸ κτῆμα.* 'Release my property from the mortgage,' or (with Kennedy), 'pay off my mortgage as you promise.' So, in another speech delivered by Apollodorus, Or. 50 (Polycles) § 28 *ἵνα λύσωνταί μοι τὸ χωρίον, ἀποδόντες...τριάκοντα μνᾶς.*

13. *τὴν συνοικίαν*] not the 'lodging-house' mentioned in Or. 45 § 28, for that belonged to his mother, who did not die until 360 B.C.; but another, possibly of equal value (100 minae). Such a security would amply suffice for a loan of 16 minae, and the rate of 16 per cent. below mentioned would, if paid on the value of the house, exactly produce the 16 minae required. In consideration of lending this sum on the security in question, Arcesas would further receive interest (from Apollodorus) at the rate of 16 per cent. on the 16 minae. Cf. Or. 36 § 6 *ἐπὶ συνοικίαις δεδανεικὼς ἦν* (with note). Aeschin. Timarch. § 124 *ὅπου πολλοὶ μισθωσάμενοι μίαν οἴκησιν διελόμενοι ἔχουσι, συνοικίαν καλοῦμεν, ὅπου δὲ εἷς ἐνοικεῖ, οἰκίαν.*

Παμβωτάδῃ] Harpocration, *Δημοσθένης ἐν τῷ πρὸς Νικόστρατον. Παμβωτάδαι τῆς Ἐρεχθηΐδος δῆμος.* Suidas gives the name of the *deme* as *Παμβῶται.* On *προὐξένησεν*, 'introduced,' cf. Or. 37 (Pant.) § 11.

βωτάδῃ, ὃν αὐτὸς οὗτος προὐξένησεν[e], *ἐπὶ ὀκτὼ ὀβολοῖς τὴν μνᾶν δανείσαντι τοῦ μηνὸς ἑκάστου. λαβὼν δὲ τὸ ἀργύριον οὐχ ὅπως χάριν τινά μοι ἀποδίδωσιν ὧν εὖ ἔπαθεν, ἀλλ' εὐθέως ἐπεβούλευέ*[f] *μοι, ἵν' ἀποστερήσειε τἀργύριον καὶ εἰς ἔχθραν κατασταίη,*

ἐπὶ ὀκτὼ ὀβολοῖς τὴν μνᾶν τοῦ μηνὸς ἑκάστου] 'Who lent me the money at an interest of 8 obols per mina per month,' i.e. 12 × 8 obols per 600 obols (or '16 per cent.') per annum. When the interest is quoted at so many obols per mina per month, we have simply to double the number of obols to find the rate per cent. per annum. Thus *ἐπὶ πέντε ὀβολοῖς* is 10 per cent.: again *ἐπὶ δραχμῇ* (i.e. *ἐφ' ἓξ ὀβολοῖς*) is 12 per cent., and *ἐπὶ τρίτῳ ἡμιωβελίῳ* (i.e. 2½ obols per mina per month) is 5 per cent. per annum. From 12 to 18 per cent. appear to have been the commonest rates of interest at Athens. (For this, and another Athenian method of reckoning rates of interest, see Donaldson's *Greek Grammar* ad fin., or Dict. Antiq. s. v. *Fenus*.)

§§ 13 *cont.*—15. *As soon as he had got the sixteen minae, so far from being grateful, he actually laid a plot to rob me of them, calculating on my being driven by my youthful inexperience into foregoing the attempt to recover the money which he owed me. First, as I was then engaged in lawsuits against my relations, he made overtures to them and pledged himself to make common cause with them. Next, as he was acquainted with my proposed pleadings, he disclosed them to my opponents, and further got me condemned to pay a fine in a case for which I had never really received a summons, though he fraudulently entered the name of his brother Arethusius as one of the witnesses to the summons alleged. Moreover, in the event of my bringing to a preliminary hearing the lawsuits which I had obtained leave to institute against my relations, they were preparing to inform against me as a debtor to the treasury and to get me thrown into prison. Lastly, Nicostratus actually got me condemned as a debtor to the treasury, made a forcible entry into my house, and carried off all my furniture, though it was worth far more than the 'debt' in question.*

οὐχ ὅπως] *non modo non.* Lit. I do not say that he did (because he did not do it). Trans. 'so far from making any grateful return, &c.'

ὅ τι χρησαίμην] 'What to do with (how to treat) the matter.' Or. 40 § 18 and Lysias 9 § 5 *ἀπορούμενος δὲ καὶ συμβουλευόμενός τινι τῶν πολιτῶν τί χρήσωμαι τῷ πράγματι.*

ἵν' ἀποστερήσειε...καὶ ἀπορούμενος ἐγὼ κ.τ.λ., ὅπως μὴ εἰσπράττοιμι] *ὅπως μὴ* is somewhat out of place, indeed *ὅπως* is really

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[e] Bekker. *προεξένησεν* S *cum* Ar (*προεξένισεν* F, *προσεξένησεν* S '*litera σ in προσ a manu recentiore deleta*' Dind.).

[f] A (Bl.). *ἐπεβούλευσέ vulgo* (Dind.).

καὶ ἀπορούμενος ἐγὼ τοῖς πράγμασι νέος ὢν ὅ τι χρησαίμην καὶ ἄπειρος πραγμάτων, ὅπως μὴ εἰσπράττοιμι αὐτὸν τἀργύριον οὗ ἡ συνοικία ἐτέθη, ἀλλ' ἀφείην αὐτῷ. πρῶτον μὲν οὖν ἐπιβουλεύει μοι μετὰ 14
1251 *τῶν ἀντιδίκων, καὶ πίστιν αὐτοῖς δίδωσιν· ἔπειτ' ἀγώνων μοι συνεστηκότων πρὸς αὐτούς, τούς τε λόγους ἐκφέρει μου εἰδώς, καὶ ἐγγράφει*[g] *τῷ δημοσίῳ*

superfluous, as the whole sentence depends on the particle of purpose *ἵνα*.—*ἀφείην*, § 8.

14. *τῶν ἀντιδίκων*] Referring principally to his opponent Phormion (cf. § 9, *διαφόρως ἔχειν τῷ Φορμίωνι*, and § 14 ad fin. *τῶν οἰκείων τῶν ἀδικούντων με*). But a litigious person like Apollodorus doubtless had many such opponents, even apart from those whose lawsuits are expressly recorded in the orations that have come down to us (see Or. 36 § 53).

τοὺς λόγους ἐκφέρει μου εἰδὼς] 'Divulges my arguments, with which he was acquainted.'

ἐγγράφει τῷ δημοσίῳ ἀπρόσκλητον κ.τ.λ.] Lit. 'registers (against me) for the state-treasury an unsummoned fine of 610 drachmae arising from production of property in court,' i.e. 'enters me as a state-debtor to the amount of 610 drachmae, demanded from me without formal citation, as a fine for non-production of property in court'; or, as Prof. Kennedy renders it, 'registers (against me) a fine to the treasury... upon a writ of *exhibit* of which I had no notice by legal summons.'

Before entering on the details, it may be well to explain the general drift of the passage. Apollodorus is engaged in a variety of lawsuits, in one of which we must suppose that he was alleged to be in possession of certain articles, probably documents, either actually belonging to one of his opponents or such that the latter had a legal right to demand production of them. The proper course on the part of Nicostratus, who had made common cause with one of these opponents, would have been to serve Apollodorus with a summons, duly attested by witnesses, requiring him to produce the articles in question. If Apollodorus had, without assigning a legally valid reason, refused to do so, Nicostratus would have been entitled to have a fine levied on Apollodorus and to get him entered as a debtor to the state for the amount of that fine. Instead of this, it appears that Nicostratus served no summons on Apollodorus (the *ἐπιβολὴ* was *ἀπρόσκλητος*), thus giving the latter no opportunity for shewing cause against the production of the articles demanded; he then proceeded to obtain a verdict against his opponent *in contumaciam*, and to have him registered as owing 610 drachmae to the public treasury. Cf. Meier and Schömann, *Att. Process*, pp. 604, 976 n., and pp. 1016—1019 Lips.

ἐγγράφει] 'registers (against

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[g] *καὶ ἐκγράφει* FQ. *om.* S.

ἀπρόσκλητον ἐξ ἐμφανῶν καταστάσεως ἐπιβολὴν[h] ἐξακοσίας καὶ δέκα δραχμάς, διὰ Λυκίδου τοῦ μυλωθροῦ

me),'—a common term for a formal entry or registration, especially of a debt or fine. Or. 43 § 71 (*lex*) *ἐγγραφφόντων οἱ ἄρχοντες...τοῖς πράκτορσιν* (the collectors) *ὃ τῷ δημοσίῳ γίγνεται.* Or. 27 § 38 *προσοφείλοντας ἡμᾶς ἐνέγραψεν.* Or. 25 (Aristog. *α*) § 4 *ὀφείλοντα τῷ δημοσίῳ καὶ ἐγγεγραμμένον ἐν ἀκροπόλει* (cf. *ib.* § 70 *ἐγγράφονται πάντες οἱ ὀφλισκάνοντες, ὅρος δ' ἡ σανὶς ἡ παρὰ τῇ θεῷ κειμένη*). Or. 40 § 23.

τῷ δημοσίῳ] For *τὸ δημόσιον* in the sense of *τὸ κοινὸν* 'the treasury,' cf. Isaeus, Or. 10 § 20 *ἐμοί τι ἀτύχημα πρὸς τὸ δημόσιον συνέβη.* Mid. § 182 and Deinarchus, Or. 2 § 2 *ὀφείλων τῷ δημοσίῳ.* See Or. 39 (Boeot.) § 14.

ἀπρόσκλητον...ἐπιβολὴν] 'a fine without a citation,' 'a fine inflicted in a case for which no citation has been issued.' Cf. § 15 *ἀπρόσκλητον δίκην*, and Mid. § 92 *τὴν κατὰ τοῦ διαιτητοῦ γνῶσιν, ἣν ἀπρόσκλητον κατεσκεύασεν, αὐτὸς κυρίαν ἑαυτῷ πεποίηται.*

ἐξ ἐμφανῶν καταστάσεως κ.τ.λ.] 'a fine upon a writ of *exhibit*,' lit. 'arising out of an *ἐμφανῶν κατάστασις*, i.e. a case of formal production of property in court.' Harpocr. *εἰς ἐμφανῶν κατάστασιν· ὄνομα δίκης ἐστὶν ὑπὲρ τοῦ τὰ ἀμφισβητήσιμα εἶναι ἐν φανερῷ· Ἰσαῖος ἐν τῷ περὶ Φιλοκτήμονος κλήρου* (6 § 31 *ἀπῄτει τὸν Πυθόδωρον τὸ γραμματεῖον καὶ προσεκαλέσατο εἰς ἐμφανῶν κατάστασιν. καταστάντος δὲ ἐκείνου πρὸς τὸν ἄρχοντα, ἔλεγεν ὅτι βούλοιτ' ἀνελέσθαι τὴν διαθήκην*). *ὁ δὲ Ἀριστοτέλης ἐν τῇ Ἀθηναίων πολιτείᾳ* (56 § 6) *πρὸς τὸν ἄρχοντά φησι λαγχάνεσθαι ταύτην τὴν δίκην, τὸν δὲ ἀνακρίνοντα εἰσάγειν εἰς τὸ δικαστήριον.* Dem. Or. 56 § 3 *τὸ ἐνέχυρον καθίστησιν εἰς τὸ ἐμφανές.* *ib.* § 38 *ἐὰν μὴ παρασχῇς τὰ ὑποκείμενα ἐμφανῆ.* Or. 52 § 10 *μάρτυρας ἔχων ἠξίουν ἐμφανῆ καταστῆσαι τὴ χρήματα.* Cf. the Roman *exhibitio* (Ulpian, Digest, 29, 3, 2 *exhibitio tabularum testamenti*); and *actio ad exhibendum* (Ulpian, Digest, 43, 29, 1 *exhibere est in publicum producere*). Hence comes our common legal term, an *exhibit* or writ of production. With *ἐμφανῆ καταστῆσαι* we may further compare our ordinary phrase *sub poena duces tecum*, used when a solicitor (for instance) holds a document which the court can require to be put in, for the furtherance of the ends of justice. Cf. Meier and Schömann, p. 478 Lips.

ἐπιβολὴν] Harpocr. *ἐπιβολή· ἡ ζημία.* Suidas (=Bekker's *Anecdota* 254, 27) *ζημίας ὄνομα, τὸ τὸν ἄρχοντα ἢ τὴν βουλὴν χρήματα ὁρίζειν τινὶ ζημίαν δοκοῦντι ἀδικεῖν τὰ δημόσια ἢ ὀρφανούς, ἢ κατέχειν τὰ ἀλλότρια καὶ μὴ εἰς ἐμφανὲς ἄγειν.* Lysias, Or. 20 § 14 *ἠνάγκαζον, ἐπιβολὰς ἐπιβάλλοντες καὶ ζημιοῦντες*, and *ib.* Or. 30 § 3. *ἐπιβολὴν* is a certain correction for *ἐπιβουλήν*. The converse mistake may be noticed in Isocr. Paneg. § 148 *διαμαρτὼν τῆς ἐπιβουλῆς*, where the best MS wrongly has *ἐπιβολῆς*.

διὰ Λυκίδου...ποιησάμενος τὴν δίκην] 'having got the case brought on by means of Lycidas,' who, as the tool of Nico-

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[h] Valesius, *ad Harpocrationem*, p. 52. *ἐπιβουλὴν codices.*

ποιησάμενος τὴν δίκην. κλητῆρα δὲ κατ᾽ ἐμοῦ τόν τε[i]
ἀδελφὸν τὸν αὑτοῦ τὸν[j] *Ἀρεθούσιον τοῦτον ἐπιγρά-*
φεται, οὗπέρ ἐστι τἀνδράποδα ταῦτα, καὶ ἄλλον τινά·
καὶ παρεσκευάζοντο, εἰ ἀνακρινοίμην κατὰ τῶν οἰκείων
τῶν ἀδικούντων με τὰς δίκας ἃς εἰλήχειν αὐτοῖς, ἐν-
δεικνύναι με ὡς ὀφείλοντα τῷ δημοσίῳ[k] *καὶ ἐμβάλλειν*
εἰς τὸ δεσμωτήριον. ἔτι δὲ πρὸς τούτοις ὁ [*Ἀρεθού-* 15
σιος][l] *ἀπρόσκλητόν μου <ἑξακοσίων καὶ>*[m] *δέκα*

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[i] Bekker. *om.* Z *cum* S (*prima manu*). '*τε in margine a manu prima* S' Dind.

[j] Z *et* Bl. *cum* FSQ. *om.* Bekker *et* Dind. *cum* Ar.

[k] *ὡς* (*om.* S) *ὀφείλοντα τῷ δημοσίῳ huc transposuit* Sauppe (p. 131). *ἐνδεικνύναι με* Bekker. 'cf. § 15 l. 3, *fortasse verba ὡς—δημοσίῳ etiam hoc loco a grammatico addita sunt*' Z.

[l] Bekker *cum libris.* *ὁ Ἀρεθούσιος om.* Sauppe (Z); *Ἀρεθούσιος excludere satis habuit* Bl., *coll.* 27 § 54.

[m] *om.* Bekker *cum libris.* *addidit* Platner, *et post eum Ullrich, quaest. Aristoph.* i p. 40 (Dind., Bl.).

stratus, was either a merely nominal prosecutor or possibly a venal arbitrator. For this use of *διὰ* referring to a mere 'cat's-paw' see note on Or. 45 § 31.

κλητῆρα ... ἐπιγράφεται] 'enters as witness to the citation.' Mid. § 87 *κλητῆρα οὐδ᾽ ὁντινοῦν ἐπιγραψάμενος*, and Or. 54 § 31 *ἐπιγράφεται μάρτυρας*, i.e. 'endorses on the deposition the names of certain persons as witnesses.'

ἀνακρινοίμην...τὰς δίκας] 'in the event of my bringing to a preliminary hearing the suits which I had instituted against my relatives (Phormion, &c) who were doing me wrong.' Harpocr. *ἀνάκρισίς ἐστιν ἐξέτασις ὑφ᾽ ἑκαστῆς ἀρχῆς γινομένη πρὸ τῶν δικῶν περὶ τῶν συντεινόντων εἰς τὸν ἀγῶνα· ἐξετάζουσι δὲ καὶ εἰ ὅλως εἰσάγειν χρή.* Cf. Meier and Schömann, p. 823 Lips.

ἐνδεικνύναι με] 'to lay an information (*ἔνδειξις*) against me' for undertaking a prosecution, while still a debtor to the treasury. Or. 58 (Theocrin.) § 14 *κελεύει* (*ὁ νόμος*) *κατά τε τῶν ὀφειλόντων τῷ δημοσίῳ τὰς ἐνδείξεις τὸν βουλόμενον ποιεῖσθαι τῶν πολιτῶν...* By *ἔνδειξις* is meant a criminal information against a person acting when under legal disability. It was brought in writing before the Archon and was a very summary process. Hermann, *Public Antiquities*, § 137, 11 (p. 556 n. 4, ed. Thumser). (Cf. Or. 39 § 14 and Pollux there quoted.)

15. *ὁ—ἐπιγραψάμενος*] The previous context shews that Nicostratus is meant, not Arethusius.

ἀπρόσκλητον δίκην] Hesychius,

δραχμῶν δίκην καταδικασάμενος[n] *<καὶ ψευδεῖς>*[o] *κλητῆρας ἐπιγραψάμενος, καὶ εἰσελθὼν εἰς τὴν οἰκίαν βίᾳ τὰ σκεύη πάντα ἐξεφόρησε, πλέον ἢ εἴκοσι μνῶν ἄξια, καὶ οὐδ᾽ ὁτιοῦν κατέλιπεν. ὅτε δὲ τιμωρεῖσθαι ᾤμην δεῖν καὶ*[p] *ἐκτείσας*[p] *τῷ δημοσίῳ τὸ ὄφλημα, ἐπειδὴ ἐπυθόμην τὴν ἐπιβολήν*[q], *ἐβάδιζον*[p] *ἐπὶ τὸν*

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[n] + *ὡς ὀφείλοντα* (*ὀφείλοντος* Reiske, Dind.) *τῷ δημοσίῳ codices, seclusit* Bekker st., *post ἐνδεικνύναι με transposuit* Sauppe.

[o] *post Reiskium addidit* Bl.

[p] *ἐκτίσας...καὶ ἐβάδιζον* Bekker.

[q] *ἐπιβολήν hic quoque ut* § 14 *cum Reiskio restituit* Bl. *ἐπιβουλήν codices.*

ἡ μὴ τυχοῦσα τῶν καλουμένων κλητόρων κατὰ τὸν νόμον· καὶ διὰ τοῦτο οὐκ ἦν εἰσαγώγιμος.

κλητῆρας ἐπιγραψάμενος] i.e. 'having endorsed it with the names of witnesses to a citation.' As the *δίκη* was *ἀπρόσκλητος*, i.e. as there were no *κλητῆρες*, this endorsement was virtually a forgery.

εἰσελθὼν κ.τ.λ.] Nicostratus made a forcible entry into the house of Apollodorus with a view to levying execution for the fine which Apollodorus had been condemned to pay to Nicostratus, or rather to his tool Lycidas.

τὰ σκεύη πάντα ἐξεφόρησε] 'carried out all my furniture' (i.e. distrained upon me for my alleged debt). Or. 22 (Androt.) § 57 *βαδίζειν ἐπ᾽ οἰκίας καὶ σκεύη φέρειν μηδὲν ὀφειλόντων ἀνθρώπων.* Nicostratus seized property worth more than 20 minae, although the 'debt' amounted to little more than six. (610 dr. = 6 m. 10 dr.)

§§ 15—18. *On my proceeding against Arethusius for fraudulent citation, he came into my property at night and laid waste my orchard with all its fine fruit-grafts, its vines and its olive-trees. Further they put up a boy of free birth to go in broad daylight and pluck the flowers of my rose-bed, hoping I would mistake him for a slave and strike him, and thus make myself liable to an indictment for assault. In this they were disappointed. Thereupon, as soon as I had brought to the preliminary stage before the magistrate my indictment of Arethusius for fraudulent citation, and was on the point of taking it before the jury, he lay in wait for me when I was coming up from the Peiraeus late at night and violently assaulted me, and was only prevented from dashing me into the quarries by some people hearing my cries and rushing to the rescue.*

Not many days after, I brought my case before the jury and with the greatest ease got Arethusius convicted. Though the jury proposed to condemn him to death, I begged them to acquiesce in the penalty proposed by my opponents themselves, a fine of one talent.

15. *ὅτε δὲ—ἐβάδιζον*] lit. 'When I thought it my duty to avenge myself, and on hearing of the

κλητῆρα τὸν ὁμολογοῦντα κεκλητευκέναι τὸν Ἀρεθούσιον[r] *τῆς ψευδοκλητείας κατὰ τὸν νόμον, ἐλθὼν εἰς τὸ χωρίον τῆς νυκτός, ὅσα ἐνῆν φυτὰ ἀκροδρύων*

fine, was proceeding, after payment of the debt, to take measures against Arethusius, &c.' In translating the whole sentence it is convenient to omit *ὅτε*, to render *ᾤμην* and *ἐβάδιζον* as principal verbs, and to begin a new English sentence with the first words of the apodosis, *ἐλθὼν εἰς τὸ χωρίον κ.τ.λ.*

τὸν Ἀρεθούσιον] to be taken in apposition with *τὸν κλητῆρα*, unless indeed the words are only an interpolated explanation of *τὸν κλητῆρα* (cf. § 10).

τῆς ψευδοκλητείας] Harpocr. *ψευδοκλητεία ὄνομα δίκης ἐστιν, ἣν εἰσίασιν ἐγγεγραμμένοι ὀφείλειν τῷ δημοσίῳ, ἐπειδὰν αἰτιῶνταί τινας ψευδῶς κατεσκευάσθαι κλητῆρας καθ' ἑαυτῶν πρὸς τὴν δίκην ἀφ' ἧς ὦφλον.* Meier and Schömann, pp. 414—415 Lips.

The genitive is here used after *βαδίζειν ἐπί τινι* on the analogy of the construction commonly found after *διώκειν, εἰσάγειν* and *ἐπεξέρχεσθαι* (in the legal sense). Plato, Leg. 886 B *ἐπεξίτω φόνου τῷ κτείναντι.* Or. 49 (Apollodorus v. Timotheus) § 56 *μὴ...ἐπὶ τόνδε κακοτεχνιῶν ἔλθοιμι.* The phrase *βαδίζειν ἐπί τινα* is found in a similar sense in Or. 52 (Apollod. v. Callippus) § 32 *ἐπὶ τὸν Κηφισιάδην βαδίζειν.* Cf. 56 §§ 15, 18, and 42 § 12 *εἰς τὸ δικαστήριον βαδίζειν.*

ὅσα ἐνῆν φυτὰ—διαθεῖεν] 'he cut off all the choice fruit-grafts that were there, and the trained vines besides; he also broke down the nursery-beds of olive-trees set in rows around my plantations, making worse havoc than would ever be made, even by enemies in war.'

ἀκροδρύων] The primary sense of the word is 'fruit,' the secondary 'fruit-trees.' Though used in early writers of any edible fruit, later authorities restrict it to the hard-shelled varieties alone. Cramer's *Anecdota Oxoniensia* III 357 *Ὀρφεὺς ἀκρόδρυα πᾶσαν ὀπώραν καλεῖ· Γάληνος δὲ καὶ οἱ τὰ φυτουργικὰ συνταξάμενοι ἀκρόδρυά φασι τὰ σκέπην ἔχοντα, οἷον ῥοίας, κάρυα, ἀμυγδάλας καὶ εἴ τι ὅμοιον* (pomegranates, nuts, almonds and the like), *ὀπώρας δὲ τὰ ἀσκεπῆ ὡς μῆλα, ἀπίους καὶ τὰ ὅμοια* (apples, pears, &c). Similarly Democritus, Geoponica X 74 *ἀκρόδρυα καλεῖται ὅσα ἔξωθεν κέλυφος ἔχει.* In Xenophon, Oeconom. 19 § 12 we have *τἆλλα ἀκρόδρυα πάντα* after mention of vines and fig-trees, and in Plato, Critias 115 B, *τὸν ἥμερον καρπόν, τόν τε ξηρὸν* (different kinds of grain)...*καὶ τὸν ὅσος ξύλινος* (fruits of hard rind). *παιδιᾶς τε ὃς ἕνεκα ἡδονῆς τε γέγονε δυσθησαύριστος ἀκροδρύων καρπός, ὅσα τε παραμύθια πλησμονῆς μεταδόρπια ἀγαπητὰ κάμνοντι τίθεμεν.* Aristot. Hist. An. VIII 28, 4 *οὔτ' ἀκρόδρυα οὔτ' ὀπώρα χρόνιος.* Athenaeus, II § 38 p. 52 *οἱ Ἀττικοὶ καὶ ἄλλοι συγγραφεῖς κοινῶς πάντα τὰ ἀκρόδρυα χάρυα λέγουσιν*, *ib.* III § 20 p. 81 *Γλαυκίδης δέ φησιν ἄριστα τῶν ἀκροδρύων εἶναι μῆλα κυδώνια* (quinces), *φαύλια, στρουθία* (two other kinds of quince).

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[r] Bekker. *κεκλητευκέναι, τόνδ' Ἀρεθούσιον*, Z *cum* SQ.

γενναίων[s] *ἐμβεβλημένα καὶ τὰς ἀναδενδράδας ἐξέκοψε, καὶ φυτευτήρια ἐλαῶν*[t] *περιστοίχων κατέκλασεν, οὕτω*

[s] A (Bl.). *γενναῖα vulgo* (Dind.).
[t] Bekker *cum* Ar. *ἐλαιῶν* Z *cum* SFQ *et* Harp.

The etymological formation of the word, referring as it does originally to what we may call the 'tree-tips,' or the fresh growth at the furthest extremities of the branches, may be illustrated by the passage in Hesiod's *Works and Days* 231 *οὔρεσι δὲ δρῦς ἄκρη μέν τε φέρει βαλάνους, μέσση δὲ μελίσσας*, and Theocritus, xv 112 *πὰρ δέ οἱ ὥρια κεῖται, ὅσα δρυὸς ἄκρα φέροντι.*

[It seems to me that *ἀκρόδρυα* meant trees which produced fruit chiefly on the upper boughs, as distinguished from vines, from which the grapes hang in clusters nearer to the ground. The edible acorn, *βάλανος*, may have been specially so described, if we limit *δρῦς* to the sense of 'oak-tree.' P.]

γενναίων] 'of a choice kind,' 'of a good stock.' Plato, Leg. 844 E *τὴν γενναίαν νῦν λεγομένην σταφυλὴν ἢ τὰ γενναῖα σῦκα ἐπονομαζόμενα ὀπωρίζειν.* (Cf. *nobilis* in Martial iii 47, 7 *frutice nobili caules* and as an epithet of *uva* ib. iv 44, 2 and *olivae* v 78, 19.) Athenaeus, xiv § 68 p. 653 *γενναῖα λέγει ὁ φιλόσοφος* (sc. Plato *u. s.*), *ὡς καὶ Ἀρχίλοχος· πάρελθε, γενναῖος γὰρ εἶς. ἢ τὰ ἐπιγεγεννημένα, οἷον τὰ ἐπεμβεβλημένα· ὁ γὰρ Ἀριστοτέλης καὶ ἐπεμβολάδας ἀπίους ὀνομάζει τὰς ἐγκεκεντρισμένας.* (The second explanation is clearly wrong. I only cite it to illustrate the next note.)

ἐμβεβλημένα] 'grafted.' Harpocration s. v. *ἀντὶ τοῦ ἐγκεκεντρισμένα Δημοσθένης ἐν τῷ πρὸς Νικόστρατον, καὶ Ἀριστοτέλης δ' ἐμβολάδας ἀπίους λέγει τὰς τοιαύτας.*

ἀναδενδράδας] 'trained vines' growing on trees, 'tree-vines.' The climbing vine is contrasted with the ground-vine of Lesbos in the *Pastoralia* of Longus, ii 1 *πᾶσα κατὰ τὴν Λέσβον ἄμπελος ταπεινή, οὐ μετέωρος οὐδὲ ἀναδενδράς, ἀλλὰ κάτω τὰ κλήματα ἀποτείνουσα καὶ ὥσπερ κιττὸς νεμομένη.* Cf. Petrie Papyri xxix 7 *πεφύτευται...τὰ περὶ τὴν ἀναδενδράδα*, and Polyb. xxxiv 11 § 1 *ἀναδενδρίτης οἶνος*, and Geoponica v 61 *ἀναδενδρῖτις*, also Strabo v p. 231 *τὸ δὲ Καίκουβον* (*Caecubum*) *ἑλῶδες ὂν εὐοινοτάτην ἄμπελον τρέφει τὴν δενδρῖτιν.* Columella iv 1, 8 *vitis arbustiva*, and Pliny N. H. xvii 23 § 199 sqq. *nobilia vina non nisi in arbustis gigni.* The best trees for the purpose were, according to Pliny, the elm (*amicta vitibus ulmo* of Hor. Ep. i 16, 3) and the poplar; next to these the ash, the fig-tree and the olive.

φυτευτήρια] 'nursery-beds,' 'plantations,' found in this sense also in *C. I. A.* iv 2, 53 *a*, *φυτεῦσαι φυτευτήρια ἐλαῶν.*

ἐλαῶν περιστοίχων] i.e. 'olives planted round the beds of the garden.' Harpocr. *περίστοιχοι· Δημοσθένης ἐν τῷ πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων. Δίδυμος δέ τι γένος ἐλαιῶν περιστοίχους καλεῖ ἃς Φιλόχορος στοιχάδας προσηγόρευσε. μήποτε* ('perhaps') *δὲ περιστοίχους κέ-*

δεινῶς ὡς οὐδ' ἂν οἱ πολέμιοι διαθεῖεν. πρὸς δὲ 16
τούτοις μεθ' ἡμέραν παιδάριον ἀστὸν εἰσπέμψαντες,
διὰ τὸ γείτονές τε[u] εἶναι καὶ ὅμορον τὸ χωρίον,
ἐκέλευον τὴν ῥοδωνιὰν βλαστάνουσαν ἐκτίλλειν, ἵν',

[u] FQ (Bl.). *om.* SA (Dind.).

κληκεν ὁ ῥήτωρ τὰς κύκλῳ περὶ τὸ χωρίον ἐν στοίχῳ πεφυκυίας (cf. Ar. Ach. 997 περὶ τὸ χωρίον ἅπαν ἐλᾶδας ἐν κύκλῳ). Pollux v 36 Σόλων δὲ καὶ στοιχάδας τινὰς ἐλάας ἐκάλεσε ταῖς μορίαις ἀντιτιθείς, ἴσως τὰς κατὰ στοῖχον πεφυτευμένας. [Lucr. v 1373 *utque olearum caerula distinguens inter plaga currere posset.* P.] On the laws protecting the cultivation of the olive in Attica and providing for the preservation of the sacred olives (or μορίαι) and even of the hollow trunk of an olive tree, see the interesting speech of Lysias, Or. 7, περὶ τοῦ σηκοῦ, esp. § 2 ἀπεγράφην τὸ μὲν πρῶτον ἐλάαν ἐκ τῆς γῆς ἀφανίζειν, καὶ πρὸς τοὺς ἐωνημένους τοὺς καρποὺς τῶν μοριῶν πυνθανόμενοι προσῄεσαν ... νυνί με σηκόν φασιν ἀφανίζειν. See also Dem. Or. 43 (Macart.) §§ 69—71, and Aristotle's *Const. of Athens* 60 §§ 2, 3.

16. παιδάριον ἀστὸν] i.e. a little boy, who was free born. It was expected that Apollodorus would have mistaken the boy for a slave and either bound or beaten him, thereby rendering himself liable to an indictment for assault (ὕβρις).

ἐκέλευον—ἐκτίλλειν] 'prompted him to pluck off the flowers of my rose-bed.' ἐκέλευον, 'put him up to...,' 'persuaded him.' [ἐκτίλλειν is perhaps 'to pick off the young shoots as they were growing.' P.]

The rhetorician Hermogenes quotes the phrase τὴν ῥοδωνιὰν ἐκτίλλειν as an instance of ἀφέλεια (Spengel, *Rhetores Graeci* II 353). Harpocration has the following article, ῥοδωνιά· Δημοσθένης ἐν τῷ περὶ τῶν Ἀρεθουσίου ἀνδραπόδων. ῥοδωνιά ἐστιν ἡ τῶν ῥόδων φυτεία ὥσπερ ἰωνιὰ ἡ τῶν ἴων, ὡς Ἑκαταῖος ἐν α' περιηγήσεως δηλοῖ. Similarly Pollux I 229, who gives ἰωνιὰ as the only parallel he can remember to the formation of the word ῥοδωνιά (cf. *rosaria*, *violaria*).

To a modern reader, the mention of a rose-bed is immediately suggestive of a pleasure garden; but whether we look to the character of its owner, who seems to have been a dry man of business and little more, or to the context with its fruit-trees, its vines and its olives, we are driven to the conclusion that his roses were mere articles of trade, grown to be sold in town for crowns and garlands. Just so, among the blessings of Peace, in the *Pax* of Aristophanes, 577, we find 'the violet-bed beside the well' mentioned in the very same breath as 'cakes and figs and myrtle-berries, sweet new wine and olive-trees.' In Or. 50 § 61, Apollodorus says of his garden, τὸ ὕδωρ...ἐκ τῶν φρεάτων ἀπέλιπεν, ὥστε μηδὲ λάχανον γενέσθαι ἐν τῷ κήπῳ.

The Greek appreciation of the rose seems to have been mainly utilitarian. Thus it is under the head of στεφανώματα that Theophrastus dilates on the many beauties of the rose and

εἰ καταλαβὼν αὐτὸν ἐγὼ πρὸς ὀργὴν[v] δήσαιμι ἢ
πατάξαιμι ὡς δοῦλον ὄντα, γραφήν με γράψαιντο
ὕβρεως. ὡς δὲ τούτου διήμαρτον, κἀγὼ μάρτυρας 1252
μὲν ὧν ἔπασχον ἐποιούμην, αὐτὸς δ' οὐδὲν ἐξημάρτανον εἰς αὐτούς, ἐνταῦθα δή[w] μοι ἐπιβουλεύουσι

[v] *addidit* Bl. *ex* A.

[w] A (Hirschig, Bl.). ἐνταῦθα ἤδη *codices*.

on its numerous varieties (πλήθει τε φύλλων καὶ ὀλιγότητι καὶ τραχύτητι καὶ λειότητι καὶ χροιᾷ καὶ εὐοσμίᾳ, *Hist. Plant.* VI 6). To the Greek, says Ruskin, 'a rose was good for scent, and a stream for sound and coolness; for the rest one was no more than leaves, the other no more than water' (*Modern Painters* III 4 13 § 13). 'A Greek despises flowers,' says Mr Bent, unless 'they are sweet-smelling or useful for something' (*Cyclades*, p. 276). It is indeed a noteworthy fact, attributable partly to the insignificance of the Attic flora, and still more to the defective development of Greek taste in this particular, that in what is known as the best period of Greek literature there is scarcely a single instance of a refined appreciation of the attractions of a flower-garden. One of the rare exceptions is the mention of κήπους εὐώδεις in Ar. Aves 1067. The passage in Eur. El. 777 κυρεῖ δὲ κήποις ἐν καταρρύτοις βεβώς, δρέπων τερείνης μυρσίνης κάρᾳ πλόκους, is hardly an exception, as the epithet 'well-watered' is somewhat prosy, and the context shews that the only reason why Aegisthus is in his garden is for the purely practical object of making himself a myrtle-wreath for his sacrifice to the mountain-nymphs. Cf. Becker's *Charicles* p. 203—4, esp. I p. 349 sqq., of the 2nd German ed. with the excellent addenda of K. F. Hermann; also the latter's *Privatalt.* § 15 note 20 p. 106 ed. Blümner; St John's *Manners and Customs of Ancient Greece*, I 301—334, esp. pp. 304, 305; Büchsenschütz, *Besitz u. Erwerb* p. 72, and Schleiden, *die Rose.*

ὕβρεως] Aeschines (Timarch. § 16) quotes a 'law of Solon': ἄν τις Ἀθηναίων ἐλεύθερον παῖδα ὑβρίσῃ, γραφέσθω ὁ κύριος τοῦ παιδὸς πρὸς τοὺς θεσμοθέτας...ἔνοχοι δὲ ἔστωσαν ταῖσδε ταῖς αἰτίαις καὶ οἱ εἰς τὰ οἰκετικὰ σώματα ἐξαμαρτάνοντες, and similarly Dem. Mid. §§ 47—48. According to these two passages, it was permissible to institute a γραφὴ ὕβρεως even for outrage done to a slave, and though the text appears at first sight to imply that in such a case an indictment could not be brought, yet all that is necessarily meant is that if the lad maltreated were free born, the indictment (however unjustifiable in the present instance) would have been easier to bring forward than in the case of a slave. (Becker's *Charicles* III p. 31—32 = p. 367 of English Abridgement. Hermann, *Privatalt.* § 6 = § 6 p. 38^4 note 2 Thalheim.)

τὴν μεγίστην ἐπιβουλήν· ἀνακεκριμένου γὰρ ἤδη 17
μου κατ' αὐτοῦ τὴν τῆς ψευδοκλητείας γραφὴν καὶ
μέλλοντος εἰσιέναι εἰς τὸ δικαστήριον, τηρήσας με
ἀνιόντα ἐκ Πειραιῶς ὀψὲ περὶ τὰς λιθοτομίας, παίει
τε πὺξ καὶ ἁρπάζει μέσον καὶ ὠθεῖ[x] με εἰς τὰς
λιθοτομίας, εἰ μή τινες προσιόντες, βοῶντός μου
ἀκούσαντες, παρεγένοντο καὶ ἐβοήθησαν. ἡμέραις δ'
οὐ πολλαῖς ὕστερον εἰσελθὼν εἰς τὸ δικαστήριον πρὸς
ἡμέραν διαμεμετρημένην, καὶ ἐλέγξας[y] αὐτὸν τὰ

[x] ἁρπάζει με (*sic* S) μέσον καὶ ὠθεῖ Z *et* Bl. '*Malim* ἑώθει' Bekker; κἂν (*pro* καὶ) ἑώθει G. H. Schaefer (Dind.).

[y] A (Bl.). ἐξελέγξας *vulgo* (Dind.).

17. *ἀνακεκριμένου*] passive form in middle sense (§ 14 *ἀνακρινοίμην τὰς δίκας*): 'when I had brought to the preliminary examination my indictment for false citation, &c.'

τηρήσας—ἐβοήθησαν] The attack reminds us partly of the murder mentioned by Cicero, pro Cluentio § 37 *in arenarias quasdam extra portam Esquilinam perductus occiditur.*

The quarries referred to in the text were possibly near the Museum hill where the Long Walls leading to the Peiraeus strike the wall enclosing Athens itself, or still more probably at a point immediately outside the *ἄστυ*, south of the Peiraic gate of Athens. In the excellent *Atlas von Athen* by Dr E. Curtius, the third map indicates 'recent quarries' at this point, just north of the ancient *βάραθρον*. In Murray's *Greece*, 1884, I 341, the incident described in the text is oddly supposed to have happened to Demosthenes.

παίει—μέσον] 'strikes me with his fist and grips me round the waist.' Or. 47 § 38 *παίει πὺξ τὸ στόμα.*

ὠθεῖ...εἰ μή] Cf. Kühner, *Gk. Gr.* II 975.

εἰσελθὼν...πρὸς ἡμέραν διαμεμετρημένην] 'having entered into court upon a day divided out among several causes,' i.e. the day on which I came into court was allotted to several law-suits, and the number of motions was so great that the time at my disposal was therefore very limited. Apollodorus wishes to indicate the ease with which after a necessarily short speech he had got a conviction against Arethusius. Cf. Aeschines, Fals. Leg. § 126 *ἐνδέχεται δὲ τὸ λοιπὸν μέρος τῆς ἡμέρας ταῦτα πρᾶξαι* (i.e. *βασανίσαι*)· *πρὸς ἕνδεκα γὰρ ἀμφορέας ἐν διαμεμετρημένῃ τῇ ἡμέρᾳ κρίνομαι.* Dem. Fals. Leg. § 120 *ὃς γὰρ ἀγῶνας καινοὺς ὥσπερ δράματα, καὶ τούτους ἀμαρτύρους πρὸς διαμεμετρημένην τὴν ἡμέραν αἱρεῖς διώκων, δῆλον ὅτι πάνδεινος εἶ τις.* Harpocr. s. v. *μέρος τι ὕδατός ἐστι πρὸς μεμετρημένον ἡμέρας μέρος ῥέον· διεμετρεῖτο δὲ τῷ Ποσειδεῶνι*...i.e. the standard length of time

ψευδῆ κεκλητευκότα καὶ τὰ ἄλλα ὅσα εἴρηκα ἠδικη-
18 *κότα, εἷλον. καὶ ἐν τῇ τιμήσει βουλομένων τῶν*
δικαστῶν θανάτου τιμῆσαι αὐτῷ, ἐδεήθην[1] *ἐγὼ τῶν*
δικαστῶν μηδὲν δι' ἐμοῦ τοιοῦτον πρᾶξαι, ἀλλὰ
συνεχώρησα[a] *ὅσουπερ αὐτοὶ ἐτιμῶντο, ταλάντου, οὐχ*
ἵνα μὴ ἀποθάνοι[b] *ὁ* Ἀρεθούσιος (*ἄξια γὰρ αὐτῷ*
θανάτου εἴργαστο εἰς ἐμέ), *ἀλλ' ἵν' ἐγὼ* Πασίωνος

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[1] *ἐδεήθην* Bekker *cum* Ar. + *μὲν* Z *cum* BF *et editione Aldina* (*ἐδεήθημεν* SQ).

[a] *scripsit* Bl. *coll.* § 20, 47 § 43, 59 § 6, Lys. 1 § 29. *συγχωρῆσαι vulgo.*

[b] G. H. Schaefer (Bl.). *ἀποθάνῃ vulgo.*

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for calculating the measurement of the *Clepsydra* was taken from a day near the end of our December. The length of the twelfth part of the day would vary with the time of the year, and the running out of the water would indicate the lapse of a particular portion of the whole day. Thus the water-clock might indicate a time equivalent to (say) the fourth part of the shortest day (Dec. 21), and this length of time might be taken as a unit of the measurement during the rest of the year (Heslop's note on Fals. Leg. *l. c.*; and Meier and Schömann p. 930, note 465 Lips.; also Aristotle's *Const. of Athens*, col. 35, 7 ed. Sandys, with Kaibel's *Stil u. Text*, p. 266).

τὰ ψευδῆ κεκλητευκότα] § 15.

18. *ἐν τῇ τιμήσει*] In an *ἀγὼν τιμητός*, the declaration of the *first* verdict, that of condemnation, was followed by the *τίμησις* or fixing of the penalty, with the *ἀντιτίμησις*, in which latter the defendant on *his* part submitted to the court an alleviation of the penalty claimed by the plaintiff. (Plato, Apol. p. 36 A.)

τιμῆσαι......ἐτιμῶντο] The active is used of the court, the middle of the parties to the suit (*αὐτοί* sc. the defendant Arethusius and his friends). Plato, Apol. p. 38 A *εἰ μὲν γὰρ ἦν χρήματα*, says Socrates, *ἐτιμησάμην ἂν χρημάτων ὅσα ἔμελλον ἐκτίσειν· νῦν δὲ οὐ γὰρ ἔστιν, εἰ μὴ ἄρα ὅσον ἂν ἐγὼ δυναίμην ἐκτῖσαι τοσούτου βούλεσθέ μοι τιμῆσαι* (of the Jury).

δι' ἐμοῦ] 'through my agency,' 'on a prosecution of *mine*.' Reiske conjectures *δι' ἐμέ*, 'on my account,' which would also make good sense, though disapproved by Dobree, who refers in support of *δι' ἐμοῦ* to Or. 51 § 17 *ὥσπερ ..χάριν τιθεμένων διὰ τῶν τοιούτων τοῖς ἀμελοῦσιν ὑμῶν, ἀλλ' οὐ διὰ τῶν βελτιόνων τοῖς ὑπηρετοῦσιν ἃ δεῖ χαρίζεσθαι προσῆκον.*

Πασίωνος ὤν] i.e. the son of one who, originally a banker's slave, had received the citizenship by adoption. Neither the father nor the son was a citizen by birth, and it would have been peculiarly invidious had the latter compassed the death of one who was by birth a citizen of Athens.

ὢν καὶ κατὰ ψήφισμα πολίτης μηδένα Ἀθηναίων ἀπεκτονὼς εἴην. ὡς δ' ἀληθῆ εἴρηκα πρὸς ὑμᾶς, τούτων ὑμῖν τοὺς[c] *μάρτυρας πάντων παρέξομαι.*

ΜΑΡΤΥΡΕΣ.

Ἃ μὲν τοίνυν ἀδικούμενος ὦ ἄνδρες δικασταὶ ὑπ' 19
αὐτῶν τὴν ἀπογραφὴν ἐποιησάμην, δεδήλωκα ὑμῖν· ὡς δ' ἔστιν Ἀρεθουσίου τἀνδράποδα ταῦτα καὶ ὄντα ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἀπέγραψα ἐπιδείξω ὑμῖν[d]. *τὸν μὲν γὰρ Κέρδωνα ἐκ μικροῦ παιδαρίου ἐξεθρέψατο· καὶ ὡς ἦν Ἀρεθουσίου, τούτων ὑμῖν τοὺς εἰδότας μάρτυρας παρέξομαι.*

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[c] *addidit* Bl. *ex* FQ (*πάντων τοὺς μ.*); *ἁπάντων μ.* A; *μάρτυρας* r. '*Deleri potest πάντων cum* r; *τοὺς ex similitudine ceterorum locorum* (§§ 20, 21) *addendum erat*' Bl.

[d] *delere mavult* Bl.

ἀπεκτονὼς εἴην] Goodwin's *Moods and Tenses*, § 18, 1 = § 103 ed. 1889.

§§ 19—21. *Having now recounted some of the wrongs done me by Arethusius and his brother Nicostratus, I will call evidence in detail to prove that the two slaves entered by me in the specification do not belong to Nicostratus, who is now attempting to claim them, but are really part of the property of Arethusius and are thus liable to be confiscated to the state, as a partial payment of his debt to the treasury.*

§ 19. At this point the speaker, after having shewn the reasons which justified him in regarding Arethusius as his enemy and exacting vengeance from him, reaches the real point at issue, viz. the proof that the slaves specified in the schedule belong to Arethusius, and not, as is alleged, to his brother Nicostratus.

τὸν μὲν γὰρ Κέρδωνα] contrasted with *τὸν δὲ Μάνην* in § 20. *Κέρδων* is a slave-name expressive of knavish cunning (cf. *ἡ κερδώ*, 'the wily one,' i.e. 'the fox'). Digest XXXVIII 1, 42 *Cerdonem servum meum manumitti volo* (quoted by Mayor on Juv. IV 153 *tollat sua munera Cerdo*).

ἐκ μικροῦ παιδαρίου] Plat. Symp. 207 D *ἐκ παιδαρίου*, Or. 59 (Apoll. *κατὰ Νεαίρας*) § 18, *ταύτας παιδίσκας ἐκ μικρῶν παιδίων ἐκτήσατο*, and similarly the far more frequent phrases *ἐκ παιδός* (Or. 27 § 4), *ἐκ νέου*, *ἐκ μειρακίου*.

ΜΑΡΤΥΡΕΣ.

20 Παρ' οἷς τοίνυν εἰργάσατο πώποτε, ὡς τοὺς μισθοὺς Ἀρεθούσιος ἐκομίζετο ὑπὲρ αὐτοῦ, καὶ δίκας ἐλάμβανε καὶ ἐδίδου, ὁπότε κακόν τι ἐργάσαιτο, ὡς δεσπότης ὤν, τούτων ὑμῖν τούς[e] μάρτυρας παρέξομαι. 1253

ΜΑΡΤΥΡΕΣ.

Τὸν δὲ Μάνην, δανείσας ἀργύριον Ἀρχεπόλιδι

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[e] + *εἰδότας vulgo; om.* A (Bl. *coll.* § 19).

20. *παρ' οἷς τοίνυν—δεσπότης ὤν*] sc. *ὡς Ἀρεθούσιος ἐκομίζετο τοὺς μισθοὺς παρ' ἐκείνων παρ' οἷς εἰργάσατο πώποτε ὁ Κέρδων κ.τ.λ.* 'I shall shew also that Arethusius got the wages on his account from all the persons with whom he ever worked; and that he used to receive compensation or to pay it when Cerdon did any mischief, as a master would be bound to do.' Kennedy.—[*πώποτε* in the earlier Attic is never used without the negative, but often in Plato and Demosthenes. P.]

Slaves were sometimes let out by their owners either for work in the mines or for any kind of labour; or again (as here) to work as hired servants for wages (*ἀποφορά*), which went to their masters. Aeschin. Timarch. § 97 *οἰκέτας δημιουργοὺς τῆς σκυτοτομικῆς τέχνης ἐννέα ἢ δέκα ὧν ἕκαστος τούτῳ δυ' ὀβολοὺς ἀποφορὰν ἔφερε τῆς ἡμέρας.* Isaeus Or. 8 (Ciron) § 35 *ἀνδράποδα μισθοφοροῦντα* (Hermann, *Privatalt.* § 13, 10 and § 49 ad fin. pp. 91, 463 ed. Blümner).

δίκας ἐλάμβανε] A slave was incapacitated from conducting a law-suit either on his own account or on behalf of another. Plato, Gorg. 483 B *ἀνδραπόδου, ὅστις ἀδικούμενος καὶ προπηλακιζόμενος μὴ οἷός τ' ἐστὶν αὐτὸς αὑτῷ βοηθεῖν μηδ' ἄλλῳ οὗ ἂν κήδηται.* Or. 37 (Pant.) § 51 *ἔδει...λαχόντα ἐκείνῳ* (sc. *τῷ δούλῳ*) *τὴν δίκην τὸν κύριον διώκειν ἐμέ.* (Hermann, *Privatalt.* § 59, 1 = *Rechtsalt.* § 4, p. 22^4 Thalheim.)

δίκας...ἐδίδου, ὁπότε κακόν τι ἐργάσαιτο] The law by which the master had to make good any damage done by his slave is quoted as a law of Solon by Lysias, Or. 10 (Theomnest. A) § 19 *οἰκῆος καὶ δούλης τὴν βλάβην ὀφείλειν.* Cf. Dem. 55 § 31.—The clause containing *ἐργάσαιτο* refers of course to *δίκας ἐδίδου* alone; otherwise we should have had some such phrase as *ὁπότε κακόν τι πάθοι ἢ ἐργάσαιτο.*

τὸν δὲ Μάνην] governed by *ἐναπετίμησεν*, but placed early for emphatic contrast with *τὸν μὲν Κέρδωνα* in § 19. It may almost be regarded as an accusative absolute.

Μάνης was one of the commonest slave-names. Theophrastus in his will, which is preserved by Diogenes Laertius, v 55, mentions among his slaves Callias and Manes, and the latter

τῷ Πειραιεῖ, ἐπειδὴ οὐχ οἷός τ' ἦν αὐτῷ ἀποδοῦναι ὁ Ἀρχέπολις οὔτε τὸν τόκον οὔτε τὸ ἀρχαῖον ἅπαν, ἐναπετίμησεν αὐτῷ[f]. καὶ ὅτι ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ.

21 Ἔτι τοίνυν καὶ ἐκ τῶνδε γνώσεσθε ὦ ἄνδρες δικασταί, ὅτι εἰσὶν Ἀρεθουσίου οἱ ἄνθρωποι· ὁπότε γὰρ οἱ ἄνθρωποι οὗτοι ἢ ὀπώραν πρίαιντο ἢ θέρος μισθοῖντο ἐκθερίσαι ἢ ἄλλο τι τῶν περὶ γεωργίαν

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[f] *οὔτε τὸ ἀρχαῖον, ἅπαν ἐναπετίμησεν αὐτῷ* Reiske, G. H. Schaefer, Z, Dind. (Oxon. 1846), *et* Bekker st.

name occurs in Ar. Ran. 965, Lys. 908, 1213, and Pax 1146, while in the Aves, 523, it is used in the plural as a synonym for 'slaves,' *νῦν δ' ἀνδράποδ' ἠλιθίους Μανᾶς.* See further on Or. 45 § 86.

ἐναπετίμησεν] Archepolis handed over Manes to Arethusius as an equivalent for part of the debt due to the latter. The nominative to this verb is not Arethusius, the subject of the participle *δανείσας*, but Archepolis, the subject of the subordinate clause *ἐπειδὴ οὐχ οἷός τ' ἦν.* It will further be noticed that, while the verb *ἀποτιμάω* is generally used in the active of *borrowing* and in the middle of *lending* money on security, the compound *ἐναποτιμάω* is in the present passage applied to the debtor's transference of a part of his property on valuation in lieu of direct payment of his debt. The same compound occurs in the passive form in Dio Cassius XII 37 *τὰ ἐνέχυρα πρὸς τὴν ἀξίαν ἐναποτιμηθῆναι ἐκέλευσε* (i.e. Caesar ordained that the securities on which money had been borrowed should be valued and transferred to the creditors in place of a money payment).

The editors who place a comma after *τὸ ἀρχαῖον*, construe *ἅπαν* with *ἐναπετίμησεν αὐτῷ*, 'handed him over in full payment,' 'paid off the whole sum in the person of Manes.'

21. *ὀπώραν πρίαιντο κ.τ.λ.*] 'Whenever they bought up the produce of an orchard or hired themselves out to reap a harvest, it was Arethusius who made the bargain on their behalf for the purchase or for the wages respectively.' de Cor. § 51 *τοὺς θεριστὰς ἢ τοὺς ἄλλο τι μισθοῦ πράττοντας* and *ib.* § 262 *σῦκα καὶ βότρυς καὶ ἐλάας συλλέγων ὥσπερ ὀπωρώνης ἐκ τῶν ἀλλοτρίων χωρίων.*

μισθούμενος refers back to *θέρος μισθοῖντο ἐκθερίσαι*, just as *ὠνούμενος* corresponds to *πρίαιντο.* The latter verb having no present participle of its own, *ὠνούμενος* commonly takes its place and is so used in the present passage. Cf. note on § 10, where *πρίασθαι* is followed by *ὠνεῖσθαι.*

ἔργων ἀναιροῖντο, Ἀρεθούσιος ἦν ὁ ὠνούμενος καὶ μισθούμενος ὑπὲρ αὐτῶν. ὡς δ' ἀληθῆ λέγω, καὶ τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ.

22 *Ὅσας μὲν τοίνυν μαρτυρίας παρασχέσθαι εἶχον ὑμῖν, ὡς ἔστιν Ἀρεθουσίου τἀνδράποδα, δεδήλωκα ὑμῖν. βούλομαι δὲ καὶ περὶ τῆς προκλήσεως εἰπεῖν, ἣν οὗτοί τ' ἐμὲ*[8] *προὐκαλέσαντο καὶ ἐγὼ τούτους. οὗτοι μὲν γάρ με προὐκαλέσαντο, ὅτε ἡ πρώτη ἀνάκρισις ἦν, φάσκοντες ἕτοιμοι εἶναι παραδιδόναι ἐμοὶ αὐτῷ τἀνδράποδα βασανίσαι, βουλόμενοι μαρ-*

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[8] *τ' ἐμὲ scripsit* Bl. *coll.* 49 § 65. *με vulgo.*

§§ 22—25. *I now propose to deal with the Challenge which my opponents proposed to me, and also with that which I myself proposed to them.*

At the preliminary hearing of my case against Arethusius, they put in a Challenge, and offered therein to deliver up the slaves, to be tortured by myself, their object being to claim the Challenge as a piece of evidence in their own favour in the event of my refusing to accept it.

I replied to the Challenge by stating in the presence of witnesses, that since this was not a private but a public cause and since the slaves, as I contended, were the property of the state, it was not for myself to torture them, as I was only a private person. On the contrary, it was a question for the board of police or for certain persons chosen by the Council of the state. On these conditions I was willing to accept their Challenge, and I challenged them to accept my own proposal. They declined my offer.

22. *προκλήσεως*] On the subject of Challenges, see Or. 45 § 15.

ἣν ... με προὐκαλέσαντο] For the double acc. cf. Or. 56 § 17 *προκαλεῖσθαί τινα πρόκλησιν.*

ἡ πρώτη ἀνάκρισις] 'the first preliminary investigation,' see note on *ἀνακρινοίμην* § 14 *supra.*

παραδιδόναι ... τἀνδράποδα βασανίσαι] The principle of extracting evidence by the torture of slaves was one of the weakest points in the judicial system of Athens. Some interesting criticisms on it may be found in Forsyth's *Hortensius*, p. 40, and in Mahaffy's *Social Life in Greece*, pp. 226—8.—*ἐμοὶ αὐτῷ* is emphatic, just as, five lines further, *εἰ ἐμοὶ ἐξεδίδοσαν* contrasted with *δημοσίᾳ.* The speaker holds that the slaves belong to the *state* and should have been handed over to the public official and not to a private individual like himself.

τυρίαν τινὰ αὑτοῖς ταύτην γενέσθαι. ἐγὼ δ' ἀπε- 23
κρινάμην αὐτοῖς ἐναντίον μαρτύρων, ὅτι ἕτοιμός εἰμι
1254 ἰέναι εἰς τὴν βουλὴν μετ' αὐτῶν καὶ παραλαμβάνειν
μετ' ἐκείνης ἢ μετὰ τῶν ἕνδεκα, λέγων ὅτι, εἰ μὲν
ἰδίαν δίκην ἐδικαζόμην αὐτοῖς, εἰ ἐμοὶ ἐξεδίδοσαν,
παρελάμβανον ἄν, νῦν δὲ τῆς πόλεως εἴη τἀνδράποδα
καὶ ἡ ἀπογραφή· δεῖν οὖν δημοσίᾳ βασανίζεσθαι.
ἡγούμην γὰρ οὐ προσήκειν ἐμοὶ ἰδιώτῃ ὄντι τοὺς 24
δημοσίους βασανίζειν· οὔτε γὰρ τῆς βασάνου κύριος
ἐγιγνόμην, οὔτε καλῶς ἔχειν τὰ λεγόμενα ὑπὸ τῶν
ἀνθρώπων ἐμὲ κρίνειν,[h] ἡγούμην τε δεῖν τὴν ἀρχὴν
ἢ τοὺς ᾑρημένους ὑπὸ τῆς βουλῆς γράφεσθαι, καὶ

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[h] κρίνειν. Dind.

ταύτην] Not the evidence given by the slaves, but the mere offer to allow them to be tortured, 'wishing this (offer) to be a kind of evidence on their own side.' ταύτην is attracted into the same gender as μαρτυρίαν; τοῦτο would have made the same sense, but would have been less idiomatic.

23. εἰ ... εἰ] Two or even three protases, not co-ordinate, may belong to one apodosis, e.g. Plat. Men. 74 B εἴ τις σε ἀνέροιτο τοῦτο, τί ἔστι σχῆμα; εἰ αὐτῷ εἶπες ὅτι στρογγυλότης, εἴ σοι εἶπεν ἅπερ ἐγώ, εἶπες δήπου ἂν ὅτι σχῆμά τι (Goodwin, *Moods and Tenses*, § 55. 1 = § 510 ed. 1889).

The reiteration of εἰ in the present passage has been considered open to objection; it occurs however in Or. 54 § 15, in an undoubtedly genuine speech of Demosthenes (A. Schaefer, *Dem. u. s. Zeit* III 2, 188 and Lortzing, *Apoll.* 33).

δημοσίᾳ βασανίζεσθαι] 'to be questioned publicly,' i.e. 'to be tortured by a state-officer.'

24. οὔτε τῆς βασάνου κύριος ἐγιγνόμην] i.e. I did not acquire control of the 'question,'—authority over the examination.

οὔτε καλῶς ἔχειν] sc. ἡγούμην, 'it was unsuitable, I thought, for *myself* to decide as to the answers of the slaves.'

τὴν ἀρχὴν] sc. τοὺς ἕνδεκα, as appears by comparing § 23 μετὰ (τῆς βουλῆς) ἢ μετὰ τῶν ἕνδεκα. Reiske wrongly renders: *illum Archontem ad cuius tribunal haec causa pertineret, aut delectos a senatu.* Frequently it is the context alone that decides whether ἡ ἀρχὴ or even οἱ ἄρχοντες refers to the Archons or to some other public functionaries. Thus in Or. 22 (Androt.) § 26, τοῖς ἄρχουσιν ἐφήγου refers to the Eleven, and in Lysias, Or. κατὰ τῶν σιτοπωλῶν §§ 5—10 οἱ ἄρχοντες is several times used of the five σιτοφύλακες in the Peiraeus. On τὴν ἀρχὴν for 'the authorities,' *abstract* for *concrete*, see note on Or. 45 § 58.

γράφεσθαι] 'to have the answers written down,' or 'to

κατασημηναμένους τὰς βασάνους, ὅ τι εἴποιεν[i] οἱ ἄνθρωποι, παρέχειν εἰς τὸ δικαστήριον, ἵν᾽ ἀκούσαντες
25 ἐκ τούτων ἐψηφίσασθε ὁποῖόν τι ὑμῖν ἐδόκει. ἰδίᾳ μὲν γὰρ βασανιζομένων τῶν ἀνθρώπων ὑπ᾽ ἐμοῦ ἀντελέγετ᾽ ἂν ἅπαντα ὑπὸ τούτων, εἰ δὲ δημοσίᾳ, ἡμεῖς μὲν ἂν ἐσιωπῶμεν, οἱ δ᾽ ἄρχοντες ἢ οἱ ᾑρημένοι ὑπὸ τῆς βουλῆς ἐβασάνιζον ἂν μέχρι οὗ αὐτοῖς ἐδόκει. ταῦτα δ᾽ ἐμοῦ ἐθέλοντος, οὐκ ἂν ἔφασαν τῇ ἀρχῇ παραδοῦναι, οὐδ᾽ εἰς τὴν βουλὴν ἤθελον ἀκολουθεῖν. ὡς οὖν ἀληθῆ λέγω, κάλει μοι τούτων τοὺς[j] μάρτυρας.

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[i] εἴπαιεν Z *cum* BF. εἴποιεν Ar. ειπεν S.

[j] A (Bl.). τοὺς τούτων *vulgo*.

take down the answers.' Plato Theaet. 143 A, ἐγραψάμην ὑπομνήματα, 'I wrote me down some memoranda.' This sense of the middle must not be confounded with the technical meaning 'to indict.'

κατασημηναμένους] 'having sealed up the testimony extorted.' The documents were put into an ἐχῖνος or 'casket,' which was sealed up and afterwards produced in court and there opened. Or. 54 § 17 σημανθῆναι τοὺς ἐχίνους.

βασάνους, as is proved by the subsequent clause, 'whatever the slaves said,' is here used, not of the torture itself, but of the extorted evidence. Harpocr. βάσανος· Ἀντιφῶν· λίθος οὕτω καλεῖται, ᾗ τὸ χρυσίον παρατριβόμενον δοκιμάζεται. Ὑπερείδης δ᾽ ἐν τῷ κατ᾽ Ἀντίου τὰ ἐν ταῖς βασάνοις εἰρημένα ὑπὸ τῶν βασανιζομένων καὶ ἀναγραφέντα βασάνους ὠνόμασε. (Anaximenes) rhet. XVI 1 βάσανός ἐστι μὲν ὁμολογία παρὰ συνειδότος, ἄκοντος δέ.

παρέχειν κ.τ.λ.] 'to produce in court' the evidence obtained by torture. The torture itself, it appears, did not take place in court (see note on Or. 45 § 16).

ἵν᾽...ἐψηφίσασθε] For ἵνα 'in which case,' cf. Or. 36 § 47. ἐκ τούτων should be taken with ἐψηφίσασθε and not with ἀκούσαντες, cf. Or. 45 § 2 ἐξ ὧν (ἀκούσαντες)...γνώσεσθε.

25. ἰδίᾳ βασανιζομένων τῶν ἀνθρώπων] equivalent to εἰ ἰδίᾳ ἐβασανίζοντο. Hence in the corresponding clause, instead of δημοσίᾳ δέ, which would have been equally good Greek, we have εἰ δὲ δημοσίᾳ sc. ἐβασανίζοντο (Goodwin, *Moods and Tenses* § 109, 6 = § 841 ed. 1889).

[The drift of the argument is: 'I objected to a *private* examination, because my opponents would have said that my report of their statements was untrue; whereas if the examination were *public*, the responsibility would have rested wholly on the authorities.' P.]

οἱ ἄρχοντες] 'The Eleven.' See note on τὴν ἀρχὴν in § 24.

ΜΑΡΤΥΡΕΣ.

Κατὰ πολλὰ μὲν οὖν ἔμοιγε δοκοῦσιν εἶναι ἀναίσχυντοι 26
ἀμφισβητοῦντες τῶν ὑμετέρων, οὐχ ἥκιστα
δὲ ὑμῖν αὐτοὺς ἐπιδείξω ἐκ τῶν νόμων τῶν ὑμετέρων.
οὗτοι γάρ, ὅτε οἱ δικασταὶ ἐβούλοντο θανάτου τιμῆσαι
τῷ Ἀρεθουσίῳ, ἐδέοντο τῶν δικαστῶν χρημάτων τιμῆσαι
καὶ ἐμοῦ συγχωρῆσαι, καὶ ὡμολόγησαν αὐτοὶ
συνεκτείσειν. τοσούτου δὴ δέουσιν ἐκτίνειν[k] καθ' ἃ 27
ἠγγυήσαντο, ὥστε καὶ τῶν ὑμετέρων ἀμφισβητοῦσιν.
1255 καίτοι οἵ γε νόμοι κελεύουσι τὴν οὐσίαν εἶναι δημοσίαν,
ὃς ἂν ἐγγυησάμενός τι τῶν τῆς πόλεως μὴ ἀπο-

[k] συνεκτίνειν conicit Bl.

§§ 26—29. *My opponents are really claiming what is public property, that is, your own property, men of the jury, and I shall prove this by your own laws. When the jury were proposing to condemn Arethusius to death, my opponents proposed a pecuniary penalty and promised jointly to pay it. So far from fulfilling their guarantee, they are actually claiming your own property; and the laws declare that the property of persons who guarantee the payment of a sum to the state and fail to do so shall be confiscated; so that, even on this ground alone, the laws would require the slaves in question to be state property.*

As soon as Arethusius becomes indebted to the treasury, instead of being, as was admitted in former days, the wealthiest of the brothers, he is now made out to be ever so poor, and part of his property is claimed by his mother, part by his brothers, as in the present instance by Nicostratus.

I must ask you in conclusion to consider that there will never be any lack of claimants to contest your property, and to defraud the state of her dues, by making pitiful appeals to your compassion. If you disregard all such pleas in the present case, you will do wisely in finding a verdict against Nicostratus.

26. τιμῆσαι] See § 18.

ἐμοῦ συγχωρῆσαι] sc. ἐδέοντο, implored me to acquiesce in my opponents having a pecuniary penalty imposed on them.—ὡμολόγησαν αὐτοὶ συνεκτείσειν, 'they agreed that they would be jointly responsible for the payment.' Kennedy.

27. τῶν ὑμετέρων] The slaves claimed by the state, for nonpayment of the fine due from Arethusius, are here dexterously represented as the property of the jury.

ὃς ἂν ἐγγυησάμενος κ.τ.λ.] Andoc. de Myst. § 73 οἱ μὲν ἀργύριον ὀφείλοντες τῷ δημοσίῳ, ὁπόσοι εὐθύνας ὦφλον ἄρξαντες ἀρχάς... ἢ ἐγγύας ἠγγυήσαντο πρὸς τὸ δημόσιον, τούτοις ἡ μὲν ἔκτισις ἦν ἐπὶ τῆς ἐνάτης πρυτανείας, εἰ δὲ μὴ διπλάσιον ὀφείλειν καὶ τὰ κτήματα αὐτῶν πεπρᾶσθαι. Hermann, *Public Antiquities*, § 124, 17 = *Staatsalt.* p. 477, n. 1, ed. Thumser.

διδῷ τὴν ἐγγύην· ὥστε καὶ εἰ τούτων ἦν τἀνδράποδα,
προσῆκεν αὐτὰ δημόσια εἶναι, εἴπερ τι τῶν νόμων
28 ὄφελος. καὶ πρὶν μὲν ὀφείλειν τῷ δημοσίῳ, ὁ Ἀρε-
θούσιος ὡμολογεῖτο τῶν ἀδελφῶν εὐπορώτατος εἶναι·
ἐπειδὴ δ' οἱ νόμοι κελεύουσι τἀκείνου ὑμέτερα εἶναι,
τηνικαῦτα πένης ὢν φαίνεται ὁ Ἀρεθούσιος, καὶ τῶν
μὲν ἡ μήτηρ ἀμφισβητεῖ, τῶν δ' οἱ ἀδελφοί. χρῆν δ'
αὐτούς, εἴπερ ἐβούλοντο δικαίως προσφέρεσθαι πρὸς
ὑμᾶς, ἀποδείξαντας ἅπασαν τὴν οὐσίαν τὴν ἐκείνου,
τὰ τούτων αὐτῶν εἴ τις ἀπέγραφεν, ἀμφισβητεῖν.
29 ἐὰν οὖν ἐνθυμηθῆτε, ὅτι οὐδέποτ' ἔσται ἀπορία τῶν
ἀμφισβητησόντων ὑμῖν περὶ τῶν ὑμετέρων,—ἢ γὰρ
ὀρφανοὺς ἢ ἐπικλήρους κατασκευάσαντες ἀξιώσουσιν
ἐλεεῖσθαι ὑφ' ὑμῶν, ἢ γῆρας καὶ ἀπορίας καὶ τροφὰς
μητρὶ λέγοντες, καὶ ὀδυρόμενοι δι' ὧν μάλιστ' ἐλπί-
ζουσιν ἐξαπατήσειν ὑμᾶς, πειράσονται ἀποστερῆσαι
τὴν πόλιν τοῦ ὀφλήματος·—ἐὰν οὖν ταῦτα παριδόντες
πάντα καταψηφίσησθε, ὀρθῶς βουλεύσεσθε.

28. πένης ὢν φαίνεται] 'is made out to be a poor man.'

προσφέρεσθαι] 'to behave,' Or. 40 § 40.

ἀποδείξαντας] 'having disclosed' (delivered a formal specification of) 'the estate of Arethusius.'—τούτων αὐτῶν i.e. Nicostratus and Deinon.

29. ἐὰν οὖν—ἐὰν οὖν ταῦτα] The sentence is suspended by a parenthesis of several lines from ἢ γὰρ ὀρφανοὺς to ὀφλήματος, and it is then resumed by the repetition of ἐὰν οὖν.

ὀρφανοὺς ἢ ἐπικλήρους] 'orphan-sons or heiresses,' meaning by the latter 'orphan-daughters,' 'portionable sisters'; an 'heiress' under the Athenian law was by no means necessarily in good circumstances. (See note on Or. 45 § 75.)

ἀπορίας] 'embarrassments,' 'distresses.' For the plural cf. Fals. Leg. § 146 εὐπορίας κτήματα πλοῦτον ἀντὶ τῶν ἐσχάτων ἀποριῶν.—τροφὰς μητρί, 'a mother's maintenance.'

ὀδυρόμενοι κ.τ.λ.] 'Appeals *ad misericordiam* formed the staple conclusion of every speech, and it was not held undignified for the greatest aristocrats, or grotesque for the most notorious scamps, to burst out crying in court, and to bring up their children to excite the compassion of the jury by their tears.' Mahaffy, *Social Life in Greece*, p. 369. Cf. Or. 45 § 88 and Or. 54 § 38.

καταψηφίσησθε] sc. Νικοστράτου.

LIV.

ΚΑΤΑ ΚΟΝΩΝΟΣ ΑΙΚΕΙΑΣ[a].

ΥΠΟΘΕΣΙΣ.

[b]Ἀρίστων Ἀθηναῖος δικάζεται Κόνωνι αἰκείας[a], λέγων ὑπ' αὐτοῦ καὶ τοῦ παιδὸς αὐτοῦ τετυπτῆσθαι, καὶ μάρτυρας τούτου παρεχόμενος. ὁ δὲ Κόνων ἀρνεῖται τὸ πρᾶγμα καὶ μάρτυρας ἀντιπαρέχεται, οὓς ὁ Δημοσθένης οὔ φησι πιστούς·
1256 βεβιωκέναι γὰρ φαύλως καὶ εὐχερῶς ἔχειν πρὸς τὸ ψεύδεσθαι[b].

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[a] *αἰκείας pro αἰκίας reposuit* Bl.

[b–b] *Argumentum a manu recentiore habet* S; *habet etiam Gregorius Corinthius*, vii 1331, 24 *Walz*.

l. 2. *τετυπτῆσθαι*] In Classical Greek, we should have had the phrase *πληγὰς εἰληφέναι*. The tenses from **τυπτέω*, with the exception of the future *τυπτήσω* (used in Attic Prose and Comedy), are characteristic of late Greek. Thus, in the first *Argument* to the *Midias*, we have *τετύπτηκεν* and *τετυπτημένος*. Again, in Lucian (Demonax § 16) we read *ἐπεὶ δέ τις ἀθλητὴς...ἐπάταξεν αὐτὸν εἰς τὴν κεφαλὴν λίθῳ καὶ αἷμα ἐρρύη, οἱ μὲν παρόντες ἠγανάκτουν ὡς αὐτὸς ἕκαστος τετυπτημένος*, where *ἐπάταξεν* is correctly used (as in Classical Greek Prose) instead of the aorist active of *τύπτω*, while *τετυπτημένος* is only a late form, for which writers of the best age would have written either *πεπληγμένος* or *πληγὴν εἰληφώς*.

The *κατὰ Κόνωνος* affords an instructive study on this point of Greek usage, as will further appear in *Excursus* (*A*) at the end of the speech (p. 233).

5. *εὐχερῶς ἔχειν κ.τ.λ.*] 'make no difficulty about lying.' Or. 21 (Mid.) § 103 *τὸν μιαρὸν καὶ λίαν εὐχερῆ, τὸν κονιορτὸν Εὐκτήμονα*. So *ῥᾳδίως ὀμνύναι infra* § 39. P.]

§§ 1, 2. *I was grossly assaulted by the defendant Conon, and, for a very long time, indeed, my life was despaired of. When I was restored to health and strength, instead of going beyond my years by bringing against him a public indictment for brutal outrage, I followed the advice of my friends and took the easier course of instituting a private suit for a common assault. I ask for your indulgent hearing, while I briefly relate to you my wrongs, and I trust that, if I prove my case, you will help me to my rights.*

1 Ὑβρισθεὶς ὦ ἄνδρες δικασταὶ καὶ παθὼν ὑπὸ Κόνωνος τουτουὶ τοιαῦτα, ὥστε πολὺν χρόνον πάνυ μήτε τοὺς οἰκείους μήτε τῶν ἰατρῶν μηδένα προσδοκᾶν περιφεύξεσθαί με, ὑγιάνας καὶ σωθεὶς ἀπροσδοκήτως ἔλαχον αὐτῷ τὴν δίκην[c] τῆς αἰκείας[a] ταυτηνί. πάντων

[c] *propter syllabas breves* (ἔλαχον) *mavult* Bl. *aut* τὴν δίκην αὐτῷ, *aut* τούτῳ τὴν δίκην.

1. *ὑβρισθεὶς—ταυτηνί*] The opening sentence is best rendered by treating *ὑβρισθεὶς* and *παθὼν* as principal verbs, and beginning a fresh sentence with the word *ὑγιάνας*, e.g. 'I was the victim of wanton outrage, and I suffered such maltreatment at the hands of Conon the defendant, that, for a very long time indeed, neither my friends nor any of my medical attendants expected my recovery. Contrary to expectation, I was restored to health and strength; and I thereupon brought against him the present action for the assault in question.'

This exordium is quoted by the rhetorician Hermogenes as an example of perspicuity and directness of expression (*καθαρότης*, Spengel, *Rhetores Graeci* II 276). Here, as in Or. 45, the keynote of the whole speech is struck by the opening word, *ὑβρισθείς*. Cf. also Or. 21 (Mid.) § 1 *τὴν μὲν ἀσέλγειαν, ὦ ἄνδρες δικασταί, καὶ τὴν ὕβριν κ.τ.λ.*

πολὺν χρόνον πάνυ] For this position of *πάνυ*, placed *after* *πολὺν*, and even separated from it, cf. Plato, Hipp. Maj. 282 E *ἐν ὀλίγῳ χρόνῳ πάνυ*, Or. 30 § 2 *ὑβριστικῶς ὑπ' αὐτοῦ πάνυ ἐξεβλήθην*, and (Dem.) Prooem. 18 *βραχύ τί μοι πεισθῆτε πάνυ.*

ἔλαχον...δίκην] lit. 'obtained this suit by lot,' 'had it allotted to me,' i.e. 'obtained leave (from the Archon) to bring this action.' Where several lawsuits were instituted at the same time, the Archon decided by lot the order in which they were to be heard (*κληροῦν τὰς δίκας*); hence the applicant for leave to bring an action is commonly said *λαγχάνειν δίκην*. See Meier and Schömann, p. 791 Lips.

τῆς αἰκείας] 'the assault in question.' Ariston, as he further explains in the next sentence, is bringing against Conon a private suit for assault (*αἰκείας δίκη*), instead of a public indictment for wanton outrage (*ὕβρεως γραφή*). The penalty in the former was light, namely, a pecuniary fine paid to the plaintiff; in the latter, it was either a fine paid to the state, or, in extreme cases, death. The former implied that the complainant had been simply assaulted and struck, the latter that he had been subjected to malicious and brutal indignities.

Harpocration s.v. *αἰκίας· εἶδος δίκης ἰδιωτικῆς ἐπὶ πληγαῖς λαγχανομένης, ἧς...ὁ μὲν κατήγορος τίμημα ἐπιγράφεται, ὁπόσου δοκεῖ ἄξιον εἶναι τὸ ἀδίκημα, οἱ δὲ δικασταὶ ἐπικρίνουσι* (Isocr. 20 Loch. § 16). See Meier and Schömann, p. 646 Lips.

Lexica Segueriana p. 355 *αἰκία διαφέρει ὕβρεως, ὅτι αἰκία*

δὲ τῶν φίλων καὶ τῶν οἰκείων, οἷς συνεβουλευόμην, ἔνοχον μὲν φασκόντων αὐτὸν ἐκ τῶν πεπραγμένων εἶναι καὶ τῇ τῶν λωποδυτῶν ἀπαγωγῇ καὶ ταῖς τῆς ὕβρεως γραφαῖς, συμβουλευόντων δέ μοι καὶ παραινούντων μὴ μείζω πράγματ' ἢ δυνήσομαι φέρειν ἐπάγεσθαι, μηδ' ὑπὲρ τὴν ἡλικίαν ὧν[d] ἐπεπόνθειν ἐγκαλοῦντα φαίνεσθαι, οὕτως ἐποίησα καὶ δι' ἐκείνους

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[d] περὶ ὧν Rauchenstein, *Philologus*, ix 739.

μὲν ἡ διὰ πληγῶν, ὕβρις δὲ καὶ ἄνευ πληγῶν μετὰ προπηλακισμοῦ καὶ ἐπιβουλῆς· διὸ καὶ εὐθῦναι ἐλάττονες τῆς αἰκίας. See also Or. 37 § 33.

συνεβουλευόμην...συμβουλευόντων] 'consulted'...'counselled.' The active and middle senses of this verb are also found side by side in Xen. Anab. II 1 § 17 ξυμβουλευομένοις ξυνεβούλευσε τάδε.

τῇ τῶν λωποδυτῶν ἀπαγωγῇ] 'the summary process directed against foot-pads,' i.e. 'summary arrest and imprisonment for highway robbery.' The plaintiff's friends meant that Conon might have been captured *flagrante delicto*, and carried off to prison as a λωποδύτης (lit. 'a clothes-stealer'). According to the plaintiff's subsequent statement, this would be actually true, as Conon and his friends had stripped him of his cloak and carried it off (§ 8 ἐξέδυσαν, and § 10 ἀπεκομίσθην γυμνός, οὗτοι δὲ ᾤχοντο θοἰμάτιον λαβόντες μου). Cf. Isocr. antid. § 90 τοῦτον ἀπαγαγὼν ἀνδραποδιστὴν καὶ κλέπτην καὶ λωποδύτην, Dem. Or. 22 § 26, Aeschin. Timarch. § 91, Lysias Or. 10 § 10, and 13 § 68 ἐνθάδε λωποδύτην ἀπήγαγε, καὶ ὑμεῖς κρίναντες αὐτὸν ἐν τῷ δικαστηρίῳ καὶ καταγνόντες αὐτοῦ θάνατον ἀποτυμπανίσαι παρέδοτε. Hermann, *Rechtsalt*. p. 41 Thalheim; Meier and Schömann p. 275 n. 208 Lips.

ὕβρεως γραφαῖς] here contrasted with αἰκείας δίκη.—Harpocr. γραφή· δημοσίου τινὸς ἐγκλήματος ὄνομα. δίκη· ἰδίως λέγεται ἐπὶ ἰδιωτικῶν ἐγκλημάτων, ὡς σαφὲς ποιεῖ Δημοσθένης ἐν τῷ κατὰ Κόνωνος.

[The plural γραφαὶ shows that more than one public indictment could have been framed. See also Or. 21 (Mid.) § 28 καὶ δίκας ἰδίας δίδωσιν ὁ νόμος μοι καὶ γραφὴν ὕβρεως. P.]

ἐπάγεσθαι] 'to take upon my shoulders a greater burden than I should be able to bear.' —πράγματα, in taking legal action. P.]

ὑπὲρ τὴν ἡλικίαν—φαίνεσθαι] 'to incur the imputation of going beyond my years in undertaking to prosecute for the maltreatment I had received.' Or. 58 § 1 (of a youthful citizen appearing as a prosecutor) μήθ' ἡλικίαν μήτ' ἄλλο μηδὲν ὑπολογισάμενος, 29 § 1. The task of instituting and carrying to its issue a γραφὴ ὕβρεως would be more laborious and would require greater skill and experience than was involved in a

ἰδίαν ἔλαχον δίκην, ἥδιστ' ἂν ὦ ἄνδρες Ἀθηναῖοι
2 θανάτου κρίνας τοῦτον[e]. καὶ τούτου συγγνώμην ἕξετε,
εὖ οἶδ' ὅτι, πάντες, ἐπειδὰν ἃ πέπονθ' ἀκούσητε· δει-
νῆς γὰρ οὔσης τῆς τότε συμβάσης ὕβρεως οὐκ ἐλάτ-
των ἡ μετὰ ταῦτ' ἀσέλγει' ἐστὶ τούτου[f]. ἀξιῶ δὴ 1257

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[e] *scripsit* Bl. *τουτονί vulgo.*

[f] *scripsit* Bl. *τουτονί vulgo.*

δίκη αἰκείας. A young man like Ariston would find himself in an awkward and invidious position, as prosecutor in so ambitious a case as a *γραφὴ ὕβρεως*, not to mention his being unequally matched against an unscrupulous opponent who was older than himself and had numerous connexions to support him. He would also be deterred (though he does not here confess it) by the rule requiring the prosecutor to pay a fine of a thousand drachmae in the event of his not obtaining at least one-fifth part of the votes (Or. 21 § 47).

The construction is, *ἐγκαλοῦντα τούτων ἃ ἐπεπόνθειν*. For the gen. cf. Or. 36 § 9 *πῶς ἔνεστ' ἐγκαλεῖν αὐτῷ μισθώσεως.*

[*ὑπὲρ τὴν ἡλικίαν* may mean, 'beyond the resentment suited to my years,' implying that a young man ought to put up with a little affront, and not make a serious matter of it. P.]

ἰδίαν] *ἀντὶ τοῦ ἰδιωτικὴν Δημοσθένης ἐν τῷ κατὰ Κόνωνος. ἐλέγετο δὲ τὸ ἴδιον καὶ ἰδιωτικὸν ὡς ὁ αὐτὸς ῥήτωρ ἐν τῷ κατὰ Ζηνόθεμιν* (§ 32 *πρᾶγμα ἴδιον*), Harpocration.

ἥδιστ' ἂν—τοῦτον] Cf. Or. 53 § 18 *οὐχ ἵνα μὴ ἀποθάνῃ κ.τ.λ.* 'Ce cri de haine a quelque chose de naïf et de sauvage; le plaignant semble le laisser échapper malgré lui, sous l'impression trop vive encore des injures, qu'il a reçues. Cet involontaire et rapide oubli de la modération qu'il s'est commandée donne à son langage un accent de sincérité plus marqué; il lui sert aussi pour amener le récit des faits de la cause' (Perrot, *Revue des deux mondes*, 1873, 3, p. 946).

θανάτου] The penalty of death was inflicted in cases of *λωποδυτῶν ἀπαγωγή*, and even in special cases of *ὕβρεως γραφή*. For the former, cf. Xen. Mem. I 2 § 62 *ἐάν τις φανερὸς γένηται λωποδυτῶν ἢ βαλαντιοτομῶν ἢ τοιχωρυχῶν, τούτοις θάνατός ἐστιν ἡ ζημία.* For the latter, cf. Lysias, fragm. 44 *καίτοι τις οὐκ οἶδεν ὑμῶν ὅτι τὴν μὲν αἰκίαν χρημάτων ἔστι μόνον τιμῆσαι, τοὺς δὲ ὑβρίζειν δόξαντας ἔξεστιν ὑμῖν θανάτῳ ζημιοῦν*, Dem. Or. 21 § 49, inf. § 23.—'*θάνατος* articulo carere solet, si supplicium significat et cum vocabulo iudiciali coniungitur' Zink (quoting Procksch in *Philologus* xxxvii 306).

κρίνας] *ἥδιστ' ἂν κρίνας*, for *καίτοι ἥδιστ' ἂν ἔκρινα*, well illustrates the fondness of the Greeks for participial construction. The sense is, 'though I would most gladly have brought him to trial on the capital charge.' P.]

2. *δεινῆς—τούτου*] 'The original outrage, atrocious as it was, does not surpass the subsequent brutality of the defendant.' See

καὶ δέομαι πάντων ὁμοίως ὑμῶν, πρῶτον μὲν εὐνοϊκῶς ἀκοῦσαί μου περὶ ὧν πέπονθα λέγοντος, εἶτ', ἐὰν ἠδικῆσθαι καὶ παρανενομῆσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια. ἐξ ἀρχῆς δ' ὡς ἕκαστα πέπρακται διηγήσομαι πρὸς ὑμᾶς, ὡς ἂν οἷός τ' ὦ διὰ βραχυτάτων.

§ 26. The first clause may prehaps be taken as a genitive absolute.

παρανενομῆσθαι] The passive is formed just as if the verb were directly transitive in the active, i.e. as if the active construction were *παρανομεῖν τινα*, and not *εἴς τινα*. So also the active *παροινεῖν εἴς τινα* has *παροινεῖσθαι* for its corresponding passive (see below § 4 *init.* and § 5 *fin.*).

βοηθῆσαί μοι τὰ δίκαια] 'assist me to my rights.' For the phrase and the context, cf. Or. 27 § 3 *δέομαι ὑμῶν...μετ' εὐνοίας τ' ἐμοῦ ἀκοῦσαι κἂν ἠδικῆσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια, ποιήσομαι δ' ὡς ἂν δύνωμαι διὰ βραχυτάτων τοὺς λόγους*, ib. § 68, Or. 35 § 5; 38 § 2; 40 § 61. A fuller phrase may be noticed in § 42 of this speech, *βοηθεῖν καὶ τὰ δίκαια ἀποδιδόναι*. Kühner, *Gk. Gr.* 264 § 410 c, quotes Xen. Mem. II 6 § 25 *ὅπως αὐτός τε μὴ ἀδικῆται καὶ τοῖς φίλοις τὰ δίκαια βοηθεῖν δύνηται*, — *zum Rechte verhelfen*. It is an extension of the cogn. acc. *βοηθεῖν βοήθειαν*.

The exordium has several points of coincidence with that of Or. 45. See p. 59.

In the next four sections the plaintiff states the origin of the bad blood between the defendant's family and himself. The narrative, though part of the *διήγησις* which naturally follows immediately after the *προοίμιον* of a forensic speech, is only preliminary to the recital of the facts on which the suit is really founded. It is to this portion of the statement of the case that Rhetoricians like Theodorus of Byzantium would have given the name of *προδιήγησις* (Arist. Rhet. III 13).

§§ 3—6. *Two years ago, we were ordered out to Panactum on garrison duty, and, as ill luck would have it, the sons of Conon pitched their tents close to our own. They picked quarrels with our servants and were persistently guilty of drunken and indecent conduct at the expense of our attendants and ourselves. My messmates and myself represented the case to the general, and he reprimanded them severely for their treatment of ourselves and for their misbehaviour in the camp. Notwithstanding, they burst in upon us on that very evening and violently assaulted us; indeed, serious consequences might have ensued, but for the arrival of the officers on the scene of disorder. On our return to Athens, there was naturally some ill blood between Conon's sons and myself, but I simply made up my mind to have nothing more to do with them. However, as the result proved, my collision with the sons in the camp led to my being grossly maltreated by their father the defendant, who, instead of rebuking his sons for the original outrage, has himself*

3 Ἐξῆλθον[g], ἔτος τουτὶ τρίτον, εἰς Πάνακτον φρουρᾶς ἡμῖν προγραφείσης. ἐσκήνωσαν οὖν οἱ υἱεῖς οἱ Κόνωνος [τουτουὶ][h] ἐγγὺς ἡμῶν, ὡς οὐκ ἂν ἐβουλόμην· ἡ γὰρ ἐξ ἀρχῆς ἔχθρα καὶ τὰ προσκρούματ'[i] ἐκεῖθεν ἡμῖν συνέβη, ἐξ ὧν δ', ἀκούσεσθε. ἔπινον ἑκάστοθ'

[g] *ἐξῆλθον codices, et Rhet. Gr.* vii 924 (Bl.). *ἐξήλθομεν (syllabis brevibus)* Hermog. iii 95, Schol. Hermog. vii 732, 798, Psellus iii 692, Dionys. Demosth. c. 12 (Dind.).

[h] *propter hiatum secl.* Bl.

[i] Dionys. (Bl.). *προσκρούσματα vulgo.*

been guilty of a much more shameful aggression.

'Par sa vive et familière simplicité, ce récit dut plaire aux juges, vieillards auxquels il rappelait les campagnes de leur jeunesse, les nuits passées sous la tente, les repas au grand air, dans ces beaux sites où se dressaient, au milieu des montagnes, les forteresses destinées à protéger les frontières de l'Attique' (Perrot *u. s.* p. 947).

3. *ἐξῆλθον*] not as a youthful *περίπολος*, but as a regular soldier. This may be inferred from § 5, where the *στρατόπεδον*, *στρατηγός* and *ταξίαρχοι* are mentioned, and where there is apparently an absence of the strict discipline usual in the case of *ἔφηβοι* (Zink, p. 19).

ἔτος τουτὶ τρίτον] 'two years ago' (sc. *ἐστί*). Dem. Ol. 3 § 4 *ἀπηγγέλθη ... τρίτον ἢ τέταρτον ἔτος τουτί, Ἡραῖον τεῖχος πολιορκῶν.*

The present passage places the date of the speech in the 'third year after,' or, as we should say, 'two years after,' an expedition to Panactum. See *Introd.* p. lxiii.

On Panactum, or Panactus, a fort on the borders of Attica and Boeotia (Leake's *Demi* p. 128), Harpocration has this article; *Πάνακτος· Δημοσθένης κατὰ Κόνωνος· πόλις ἐστὶ μεταξὺ τῆς Ἀττικῆς καὶ τῆς Βοιωτίας.* He further notes that Thucydides (v 42) makes the word neuter, and Menander masculine.

φρουρᾶς..προγραφείσης] 'being ordered out on garrison duty.' For *προγράφειν*, in the sense of 'putting up a public notice' at head-quarters, compare Arist. Aves 448 *ἀκούετε λεῴ· τοὺς ὁπλίτας νυνμενὶ | ἀνελομένους θὤπλ' ἀπιέναι πάλιν οἴκαδε, | σκοπεῖν δ' ὅ τι ἂν προγράφωμεν ἐν τοῖς πινακίοις*, and Aristotle *ἐν Ἀθηναίων πολιτείᾳ* (53 § 7, quoted by Harpocration, s.v. *στρατεία*), *ὅταν ἡλικίαν ἐκπέμπωσι, προγράφουσιν ἀπὸ τίνος ἄρχοντος* (+ *καὶ papyrus*) *ἐπωνύμου μέχρι τίνος* (*τίνων papyrus*) *δεῖ στρατεύεσθαι.* Cf. Lysias 14 § 6, Dem. Ol. 3 § 4, 4 § 21; Aeschin. F. L. 133, 168.

ὡς οὐκ ἂν ἐβουλόμην] sc. *σκηνῶσαι αὐτούς*, 'and would to heaven they had not!'

προσκρούματα] 'collisions.' Or. 39 § 18 *πολλοῖς προσκρούει* and Or. 37 § 15 *ᾧ φίλος ἦν...τούτῳ προσκεκρουκότα*, 33 § 7.

ἐξ ὧν δ', ἀκούσεσθε] Or. 14 § 17 *δι' ὃ δ', εἴσεσθε.*

οὗτοι τὴν ἡμέραν, ἐπειδὴ τάχιστ᾽ ἀριστήσειαν[j], ὅλην,
καὶ τοῦθ᾽ ἕως περ ἦμεν ἐν[k] τῇ φρουρᾷ, διετέλουν ποι-
οῦντες. ἡμεῖς δ᾽ ὥσπερ ἐνθάδ᾽ εἰώθειμεν[l], οὕτω διή-
γομεν καὶ ἔξω. ἣν οὖν δειπνοποιεῖσθαι τοῖς ἄλλοις 4
ὥραν συμβαίνοι, ταύτην ἂν ἤδη παρῴνουν[m] οὗτοι, τὰ
μὲν πόλλ᾽ εἰς τοὺς παῖδας ἡμῶν τοὺς ἀκολούθους,
τελευτῶντες δὲ καὶ εἰς ἡμᾶς αὐτούς· φήσαντες γὰρ
καπνίζειν αὐτοὺς[n] ὀψοποιουμένους τοὺς παῖδας ἢ
κακῶς λέγειν, ὅ τι τύχοιεν, ἔτυπτον καὶ τὰς ἀμίδας[o]

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[j] Dionys. (Bl.). *-αιεν vulgo.*

[k] Dionys. (Bl.). *ἐπὶ (syllabis brevibus) vulgo.*

[l] A *et* Dionys. (Bl.). *εἰώθαμεν vulgo.*

[m] *propter hiatum scripsit* Bl. *coll.* S *in Or.* 22 § 63 *παρῳνήθη. ἐπαρῴνουν vulgo.*

[n] *αὑτοὺς* Z. [o] Bekker. *ἀμίδας* Z *cum* r; *αμιδας* S.

ἀριστήσειαν ... δειπνοποιεῖσθαι] On *ἄριστον* and *δεῖπνον*, see Becker's *Charicles*, p. 313, ed. 3.—The optative *ἀριστήσαιεν* denotes frequent and repeated action, which is also clearly brought out by *ἑκάστοτε* and *διετέλουν ποιοῦντες.*

4. *ὥραν*] Not to be translated 'hour,' but 'time,' as *ὥρα* in the former sense is found in late Greek only, and was probably first so used by Hipparchus the Alexandrine astronomer in the second century B.C. In phrases like *ἔθυον ὥραν οὐδενὸς κοινὴν θεῶν* (Eumen. 109) and *τὴν τεταγμένην ὥραν*. (Bacch. 724), the rendering 'hour' should be avoided as open to misconstruction.

ταύτην....παρῴνουν....εἰς τοὺς παῖδας] Liddell and Scott (ed. 6) inadvertently quote this passage as an instance of *παροινεῖν* being used transitively 'like *ὑβρίζειν*,' whereas *ταύτην* is obviously the accusative of time (sc. *τὴν ὥραν*) and the object of *παροινεῖν* is expressed by *εἰς τοὺς παῖδας* this has been corrected in ed. 7. For the corresponding passive to this intransitive active, see § 5 *fin.* *παροινουμένους.* [*πάροινος* and *παροινεῖν* mean, not 'to be intoxicated,' but 'to be abusive over one's cups.' P.]

ὅ τι τύχοιεν] This clause is to be taken *ἀσυνδέτως.* 'Pretending, in short, anything they pleased.' The full construction would be: *φήσαντες ὅ τι τύχοιεν φήσαντες.*

ἔτυπτον] See *Excursus* (*A*) on p. 233.

τὰς ἀμίδας κ.τ.λ.] 'They emptied the chamber-pots on them.' Kennedy. Hermogenes, who selects the present narrative as an instance of *ἁπλῆ διήγησις*, draws attention to the orator's plain-speaking in the clauses before us, and quotes them from memory with this comment: *οὐ γὰρ εἶχε μᾶλλον δεινῶσαι τῷ λόγῳ ἢ τὰ πράγματα λέγων αὐτὰ*

κατεσκεδάννυσαν[p] καὶ προσεούρουν καὶ ἀσελγείας
καὶ ὕβρεως οὐδ' ὁτιοῦν ἀπέλειπον[q]. ὁρῶντες δ' ἡμεῖς
ταῦτα καὶ λυπούμενοι τὸ μὲν πρῶτον ἐμεμψάμεθα[r],
ὡς δ' ἐχλεύαζον ἡμᾶς καὶ οὐκ ἐπαύοντο, τῷ στρατηγῷ
τὸ πρᾶγμ' εἴπομεν κοινῇ πάντες οἱ σύσσιτοι προσελ-
5 θόντες, οὐκ ἐγὼ τῶν ἄλλων ἔξω. λοιδορηθέντος δ'
αὐτοῖς ἐκείνου καὶ κακίσαντος αὐτοὺς οὐ μόνον περὶ
ὧν εἰς ἡμᾶς ἠσέλγαινον, ἀλλὰ καὶ περὶ ὧν ὅλως
ἐποίουν ἐν τῷ στρατοπέδῳ, τοσούτου ἐδέησαν παύ-
σασθαι ἢ αἰσχυνθῆναι, ὥστ', ἐπειδὴ θᾶττον συνεσκό-
τασεν, εὐθὺς ὡς ἡμᾶς εἰσεπήδησαν ταύτῃ τῇ ἑσπέρᾳ, 1258
καὶ τὸ μὲν πρῶτον κακῶς ἔλεγον, ἔπειτα[s] δὲ καὶ
πληγὰς ἐνέτειναν ἐμοί, καὶ τοσαύτην κραυγὴν καὶ
θόρυβον περὶ τὴν σκηνὴν ἐποίησαν, ὥστε καὶ τὸν
στρατηγὸν καὶ τοὺς ταξιάρχους ἐλθεῖν καὶ τῶν ἄλλων

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[p] Dionys. (Bekker st.). *κατεσκεδάννυον codices et Rhet. Gr.* vii 1060 W (Dind.).

[q] A *et* Dionys. (Bekker). *ἀπέλιπον* Z *cum* FSQr.

[r] Hirschig (Bl.). *ἀπεπεμψάμεθα (syllabis brevibus) vulgo.*

[s] Dionys. (Bl.). *τελευτῶντες fortasse ex* § 4 *codices et Aristid.* p. 369.

ὁ ῥήτωρ ψιλά, ἃ ἔπραττον ἐκεῖνοι. γυμνὰ γάρ τοι λεγόμενα πλείονα ἰσχὺν ἔλαβεν ἢ εἴ τις αὐτὰ ἐκόσμει λόγοις (Spengel, *Rhet. Gr.* II 199).

πάντες οἱ σύσσιτοι] 'not I alone, but all the messmates in a body.' Kennedy. Cf. Lysias Or. 13 § 79 *οὔτε συσσιτήσας τούτῳ οὐδεὶς φανήσεται οὔτε σύσκηνος γενόμενος.*

ἔξω] placed last for emphasis and also to avoid *hiatus* (Rehdantz on Phil. 1 § 34).

5. *λοιδορηθέντος κ.τ.λ.*] 'He censured and rebuked them severely, not only for their brutal treatment of ourselves, but also for their general behaviour in the camp.' For *λοιδορηθεὶς* used in the sense of the aorist *middle*, cf. *διαλεχθεὶς* in § 7.—On *κακίσαντος*, cf. note on Or. 34 § 2.

ἐπειδὴ θᾶττον συνεσκότασεν] 'As soon as ever it grew dark,' 'no sooner was it dusk than...' For *ἐπειδὴ θᾶττον* (which is less common than *ἐπειδὴ τάχιστα*, § 3), cf. Or. 37 § 41 *ἐπειδὴ θᾶττον ἀνείλετο*, Plato Protag. 425 C *ἐπειδὰν θᾶττον συνιῇ τις*, Xen. Cyrop. III 3—20 *ἦν θᾶττον.*

εἰσεπήδησαν] Aeschin. 1 § 59 *εἰσπηδήσαντες νύκτωρ εἰς τὴν οἰκίαν.*

τινὰς στρατιωτῶν, οἵπερ ἐκώλυσαν μηδὲν ἡμᾶς ἀνήκεστον
παθεῖν μηδ' αὐτοὺς ποιῆσαι παροινουμένους
ὑπὸ τούτων[t]. τοῦ δὲ πράγματος εἰς τοῦτο προελθόντος,
ὡς δεῦρ' ἐπανήλθομεν, ἦν ἡμῖν, οἷον εἰκός, ἐκ 6
τούτων ὀργὴ καὶ ἔχθρα πρὸς ἀλλήλους. [u]οὐ μὴν
ἔγωγε μὰ τοὺς θεούς[u] ᾤμην δεῖν οὔτε δίκην λαχεῖν
αὐτοῖς οὔτε λόγον ποιεῖσθαι τῶν συμβάντων οὐδένα,
ἀλλ' ἐκεῖνο ἁπλῶς ἐγνώκειν, τὸ λοιπὸν εὐλαβεῖσθαι
καὶ φυλάττεσθαι μὴ πλησιάζειν τοῖς τοιούτοις.
πρῶτον [μὲν][v] οὖν ὧν εἴρηκα[w] τούτων βούλομαι τὰς
μαρτυρίας παρασχόμενος, μετὰ ταῦθ' [x]οἷ' ὑπ' αὐτοῦ
τούτου πέπονθ' ἐπιδεῖξαι, ἵν' εἰδῆθ' ὅτι ᾧ προσῆκε
τοῖς τὸ πρῶτον ἁμαρτηθεῖσιν ἐπιτιμᾶν[x], οὗτος αὐτὸς
πρὸς τούτοις[y] πολλῷ δεινότερ' εἴργασται.

ΜΑΡΤΥΡΙΑΙ.

Ὧν μὲν τοίνυν οὐδέν' ᾤμην δεῖν λόγον ποιεῖσθαι, 7

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[t] *vulgo et Dionys.* (Bl.). τουτωνί S (Dind.).

[u–u] Reiskius (Bl.). μὰ τοὺς θεούς, οὐ μὴν ἔγωγε Z *cum libris Demosthenis; μὰ τοὺς θεοὺς cum Dionysio delet* Bl.

[v] *secl.* Bl. [w] Dionys. (Bl.). τούτων ὧν εἴρηκα *vulgo.*

[x–x] ὅσ' ὑπ' αὐτοῦ τούτου πέπονθ' ἐπιδεῖξαι, ἵν' ἴδηθ' ὅτι ᾧ προσῆκε τοῖς πρώτοις ἐπιτιμᾶν *coniecit* Bl.

[y] πρὸς τούτοις Dionys. (Bl.). πρότερος *vulgo.*

ποιῆσαι] sc. μηδὲν ἀνήκεστον. The plaintiff candidly admits that the arrival of the authorities prevented himself and his friends doing violence to Conon's sons in self-defence, provoked and exasperated as they were by the brutal assaults of their opponents.

παροινουμένους] Fals. Leg. § 198 ἀπώλετ' ἂν παροινουμένη. The active construction is παροινεῖν εἴς τινα, cf. § 4 and see note on Isocr. ad Dem. § 30 πιστευθέντες.

6. τοῖς...ἁμαρτηθεῖσιν] Neuter, sc. ὑπὸ τῶν υἱέων τῶν Κόνωνος.

Here follows the narrative proper.

§§ 7—9. *Not long after our return from the camp, I was taking my usual evening walk in the market-place with a friend of mine, when a son of the defendant, Ctesias by name, who was intoxicated at the time, caught sight of us, and after raising a yell and muttering something indistinctly to himself, went off to a part of the town where a*

ταῦτ᾽ ἔστιν. χρόνῳ δ᾽ ὕστερον οὐ πολλῷ περιπατοῦντος, ὥσπερ εἰώθειν, ἑσπέρας ἐν ἀγορᾷ μου μετὰ Φανοστράτου τοῦ Κηφισιέως, τῶν ἡλικιωτῶν τινός, παρέρχεται Κτησίας ὁ υἱὸς ὁ τούτου, μεθύων, κατὰ τὸ Λεωκόριον, ἐγγὺς τῶν Πυθοδώρου. κατιδὼν δ᾽

large party, including his father, had met for a carouse; summoned them to his standard, and made them march with him down to the market-place. On closing with us, one of them fell upon my friend and pinned him, while Conon and his son and another attacked myself, stripped me of my cloak, dashed me into the mud, jumped upon me, and otherwise grossly maltreated me. The language I heard them use, as I lay helpless on the ground, was simply awful, and would hardly bear repeating. Conon himself meanwhile set up a crowing like a victorious game-cock. When they had left me, some people, who happened to come up, carried me home, and afterwards took me to a public bath, where they washed me all over, and brought the surgeons to see me. I will now call evidence, to attest to these facts.

7. περιπατοῦντος κ.τ.λ.] Hor. Sat. I 6, 113 *vespertinumque pererro Saepe forum.*

ἑσπέρας] Cf. νυκτὸς in § 28; Madvig's *Gk. Syntax* § 66 a, Farrar's *Gk. Syntax* § 46 n. and Abbott's *Shaksp. Gr.* § 176.

ἐν ἀγορᾷ] The article is omitted, as in ἄστυ and πόλις (when used of Athens); below we have εἰς τὴν ἀγοράν. Similarly εἰς βαλανεῖον in § 9, followed by εἰς τὸ βαλανεῖον in § 10.

The *agora* probably extended at this time over the inner Cerameicus, the district to the N.W. of the Acropolis.

τοῦ Κηφισιέως] The deme Κηφισία belonged to the tribe Erechtheis, and lay 12 miles N.E. of Athens at the foot of Pentelicus. It still retains its ancient name.

κατὰ] 'opposite to,' as Aesch. Theb. 528, τύμβον κατ᾽ αὐτὸν διογενοῦς Ἀμφίονος, and so frequently in Thucyd. in the sense of '*off* a coast, or river.' P.]

Λεωκόριον] The monument of the daughters of Leos (Praxithea, Theope, Eubule), who, at the command of an oracle, sacrificed themselves for their country. Or. 60 (Epitaph.) § 29 (αἱ Λεὼ κόραι) ἑαυτὰς ἔδοσαν σφάγιον τοῖς πολίταις ὑπὲρ τῆς χώρας. Cicero de Nat. Deor. III § 50. Harpocration states that it was ἐν μέσῳ τῷ Κεραμεικῷ, i.e. in the midst of the *inner* Cerameicus, the N.W. district of Athens, lying within the walls, as opposed to the *outer* Cerameicus, the κάλλιστον προάστειον where the Athenian warriors were buried (Thuc. II 34, Arist. Aves 395). It was close to the *Leocorium* that Hipparchus was slain by Harmodius and Aristogeiton (Thuc. VI 57, Aristotle's *Const. of Athens*, 18 § 3).

τῶν Πυθοδώρου] 'The premises (or shop) of Pythodorus,' either understanding οἰκιῶν, or more probably δωμάτων, like the expression which occurs twice in Or. 43 Macart. § 62 (νόμος) εἰς τὰ τοῦ ἀποθανόντος εἰσιέναι. Theocr. II 76 μέσαν κατ᾽ ἀμαξι-

ἡμᾶς καὶ κραυγάσας, καὶ διαλεχθείς τι πρὸς αὑτὸν
οὕτως ὡς ἂν μεθύων, ὥστε μὴ μαθεῖν ὅ τι λέγοι,
παρῆλθε πρὸς Μελίτην ἄνω· ἔπινον δ' ἄρ'[yy] ἐνταῦθα
(ταῦτα γὰρ ὕστερον ἐπυθόμεθα) παρὰ Παμφίλῳ τῷ
1259 κναφεῖ[z] Κόνων οὑτοσί, Θεότιμός τις, Ἀρχεβιάδης,
Σπίνθαρος ὁ Εὐβούλου, Θεογένης ὁ Ἀνδρομένους,

[yy] A, Dionys. (Bl.). γὰρ *vulgo*.

[z] γναφεῖ Dionysii codex M. κναφεῖ *vulgo*.

τόν, ᾧ τὰ Λύκωνος. [Ar. Vesp. 1440 οὕτω δὲ καὶ σὺ παράτρεχ' ἐς τὰ Πιττάλου. P.]

Pythodorus is possibly the friend of Pasion mentioned in Isocr. Trapez. § 33 Πυθόδωρον τὸν σκηνίτην καλούμενον, quoted by Harpocr. s.v. σκηνίτης: ἔοικεν ἐπώνυμον εἶναι. μήποτε (perhaps) δὲ ὡς ἀγοραῖον καλούμενον, ἐπειδὴ ἐν σκηναῖς ἐπιπράσκετο πολλὰ τῶν ὠνίων.

διαλεχθείς] Cf. § 5 λοιδορηθείς.—ὡς ἂν μεθύων, sc. διαλεχθείη. See on Or. 34 § 32.—μαθεῖν, sc. ἡμᾶς.

πρὸς Μελίτην ἄνω] A hilly district within the walls, comprising part of the western half of Athens, and including the hill of the 'Pnyx' and that of the Nymphs. Schol. on Ar. Aves 997 τὸ χωρίον...ᾧ περιλαμβάνεται καὶ ἡ Πνύξ...Μελίτη γὰρ ἅπαν ἐκεῖνο, ὡς ἐν τοῖς ὁρισμοῖς γέγραπται τῆς πόλεως. That it was near the *agora* is implied by the present passage, as well as by Plato Parm. 126 c, where Cephalus meets Adeimantus and Glaucon in the *agora*, and they conduct him to Antiphon, οἰκεῖ δὲ ἐγγὺς ἐν Μελίτῃ. It was so called from the nymph Melite, wife of Hercules (Leake's *Athens* I 441, 485; Dyer's *Athens* 97).

ἔπινον κ.τ.λ.] Either Pamphilus had invited Conon and his set to a friendly symposium, or, which is more probable, his shop was their place of lounge. Lysias 24 § 20 ἕκαστος ὑμῶν εἴθισται προσφοιτᾶν ὁ μὲν πρὸς μυροπωλεῖον, ὁ δὲ πρὸς κουρεῖον, ὁ δὲ πρὸς σκυτοτομεῖον, ὁ δ' ὅποι ἂν τύχῃ, καὶ πλεῖστοι μὲν ὡς τοὺς ἐγγυτάτω τῆς ἀγορᾶς κατεσκευασμένους, ἐλάχιστοι δὲ ὡς τοὺς πλεῖστον ἀπέχοντας αὐτῆς. (See Becker's *Charicles* p. 279.)

τῷ κναφεῖ] 'the fuller.' As woollen cloaks would be spoiled by ordinary washing, they were regularly sent to the fuller to be scoured. The process consisted in rubbing in a kind of alkaline marl (fuller's earth), Κιμωλία γῆ, Ar. Ran. 713, and carding (κνάπτειν) to raise the nap (Jebb's *Theophrastus* xxv 13, and St John's *Manners and Customs of Ancient Greece* iii 232).—The form κναφεὺς is found in the sixth century, and γναφεῖον in the fourth, B.C. 358 (Meisterhans, 58^2, n. 528).

Ἀρχεβιάδης] § 34 note.

Σπίνθαρος ὁ Εὐβούλου] This Eubulus was probably the orator and statesman, one of Demosthenes' most formidable opponents. This supposition is strongly confirmed by the fact that the orator in question is known as Εὔβουλος Σπινθάρου Προβαλίσιος. The person men-

πολλοί τινες, οὓς ἐξαναστήσας ὁ Κτησίας ἐπορεύετ'
8 εἰς τὴν ἀγοράν. καὶ ἡμῖν συνέβαινεν[a] ἀναστρέφουσιν
ἀπὸ τοῦ Φερρεφαττίου καὶ περιπατοῦσιν πάλιν κατ'
αὐτό πως τὸ Λεωκόριον εἶναι, καὶ τούτοις περιτυγχάνομεν.
ὡς δ' ἀνεμείχθημεν, εἷς μὲν αὐτῶν, ἀγνώς
τις, τῷ Φανοστράτῳ προσπίπτει καὶ κατεῖχεν ἐκεῖνον,
Κόνων δ' οὑτοσὶ καὶ ὁ υἱὸς αὐτοῦ καὶ ὁ Ἀνδρομένους
υἱὸς ἐμοὶ προσπεσόντες[b], τὸ μὲν πρῶτον ἐξέδυσαν,
εἶθ' ὑποσκελίσαντες καὶ ῥάξαντες εἰς τὸν βόρβορον,
οὕτω διέθηκαν ἐναλλόμενοι καὶ παίοντες[c], ὥστε τὸ
μὲν χεῖλος διακόψαι, τοὺς δ' ὀφθαλμοὺς συγκλεῖσαι·

[a] A (*propter hiatum* Bl.). *συμβαίνει vulgo.*

[b] *Scripsit* Bl. *περιπεσόντες vulgo; immo Aristo Cononi περιέπεσεν* Bl., *coll.* § 25.

[c] Aristides, p. 380 *bis* (Bl.). *ὑβρίζοντες vulgo.*

tioned in the text would, according to the common custom, be called Spintharus, after his grandfather. Cf. note on Or. 39 § 27. (A. Schäfer's *Dem. u. s. Zeit*, I 190 = 214², n.)

ἐξαναστήσας] The word is sometimes used as a military term of starting soldiers from ambush, as in Thuc. II 68, III 7 and 108 § 3 *ἐξανάσταντες*, and Xen. Hell. IV 8 § 37; cf. Iliad I 191. The orator makes his client, a young soldier, characteristically describe the scuffle in the language of military life. Similarly, a few lines below, *ἀνεμείχθημεν*, 'when we closed with one another.'

8. *συνέβαινεν...καὶ περιτυγχάνομεν*] A simple and somewhat archaic form of phrase instead of *ὅτε περιτυγχάνομεν*. Thuc. I 50 *ἤδη ἦν ὀψὲ καὶ οἱ Κορίνθιοι ἐξαπίνης πρύμναν ἐκρούοντο.* Soph. Phil. 354 (Kühner § 518, 8).

Φερρεφαττίου] The site of the temple of Persephone is uncertain; it is supposed to have been south of the Leocorium, and close to the statue of Triptolemus, but we have no data worth mentioning besides the vague indications of the present passage (Leake's *Athens* I 488, and Wordsworth's *Athens and Attica*, p. 150).

εἷς μὲν—ἐκεῖνον] 'One of them, whom I failed to identify, suddenly fell on Phanostratus, and pinned *him*.' The present *προσπίπτει* gives a vivid effect to the description, and the imperfect *κατεῖχεν* must also be noticed as implying that the plaintiff's friend was held fast during the whole of the ensuing scuffle, and therefore could offer no assistance.—*ὁ υἱὸς αὐτοῦ*, Ctesias. —*ἐξέδυσαν*, 'stripped me' of my cloak; § 9 *ᾤχοντο θοἰμάτιον λαβόντες μου.*

εἶθ'—συγκλεῖσαι] 'next, they tripped me up, and made me fall heavily into the mud, and by leaping upon me, and beating

οὕτω δὲ κακῶς ἔχοντα κατέλιπον[d], *ὥστε μήτ' ἀνα-
στῆναι μήτε φθέγξασθαι δύνασθαι. κείμενος δ' αὐτῶν
ἤκουον πολλὰ καὶ δεινὰ λεγόντων. καὶ τὰ μὲν ἄλλα* 9
καὶ βλασφημίαν ἔχει τινὰ καὶ λέγειν[e] *ὀκνήσαιμ' ἂν
ἐν ὑμῖν ἔνια, ὃ δὲ τῆς ὕβρεώς ἐστι τῆς τούτου σημεῖον
καὶ τεκμήριον τοῦ πᾶν τὸ πρᾶγμ' ὑπὸ τούτου γεγενῆ-
σθαι, τοῦθ' ὑμῖν ἐρῶ· ᾖδε γὰρ τοὺς ἀλεκτρυόνας
μιμούμενος τοὺς νενικηκότας, οἱ δὲ κροτεῖν τοῖς ἀγκῶ-
σιν αὐτὸν ἠξίουν ἀντὶ πτερύγων τὰς πλευράς. καὶ*

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[d] Bekker. *κατέλειπον* *Dionysius.* *καταλιπεῖν* Z *cum* FSQ. *καταλείπειν* kr.

[e] A (Bl. *coll.* § 17, 22 § 2, 24 § 7, 23 § 202). *ὀνομάζειν* *vulgo*, *coll.* 2 § 19.

me, they put me into such a condition that they cut my lip right through, and bunged up my eyes.'

9. *τὰ μὲν ἄλλα—ἐν ὑμῖν ἔνια*] i.e. 'much of what they said was most abusive, and some of it I should be sorry to repeat in your presence.' Cf. Or. 18 § 103 *ὅσ' ὀκνήσαιμ' ἂν πρὸς ὑμᾶς εἰπεῖν*, 21 § 79 *οὐ γὰρ ἔγωγε προαχθείην ἂν εἰπεῖν πρὸς ὑμᾶς τῶν τότε ῥηθέντων οὐδέν*, 2 § 19 and esp. Aeschin. 1 § 55 *τοιαῦτα ἁμαρτήματα καὶ τοιαύτας ὕβρεις… οἵας ἐγὼ μὰ τὸν Δία τὸν Ὀλύμπιον οὐκ ἂν τολμήσαιμι πρὸς ὑμᾶς εἰπεῖν· ἃ γὰρ οὗτος ἔργῳ πράττων οὐκ ᾐσχύνετο, ταῦτ' ἐγὼ λόγῳ σαφῶς ἐν ὑμῖν εἰπὼν οὐκ ἂν ἐδεξάμην ζῆν.* Cic. Ver. II 1 § 32.

This rhetorical device of professing to have compunctions at repeating the bad language of one's opponent is sufficiently obvious. The effect is threefold. (1) The court is left to imagine that the terms of abuse were singularly offensive. (2) The plaintiff is accredited with being a man of high principle for hesitating to repeat the abominable language of his opponent,—for what Aristotle would call his *δυσχέρεια τῶν αἰσχρῶν*. (3) The court is flattered by the compliment implied in the assurance that the language was too indecent to be repeated in their hearing. Cf. Arist. Rhet. III 7 *παθητικὴ δέ, ἐὰν μὲν ᾖ ὕβρις, ὀργιζομένου λέξις, ἐὰν δὲ ἀσεβῆ καὶ αἰσχρά, δυσχεραίνοντος καὶ εὐλαβουμένου καὶ λέγειν.*

σημεῖον] To be taken with *ὕβρεως*; *τεκμήριον* with *τοῦ γεγενῆσθαι*. The former is 'an indication,' 'a sign'; the latter 'a conclusive proof' (note on Isocr. ad Dem. § 2). Or. 36 § 12.

ηδε—πλευράς] 'he began to crow, mimicking the fighting-cocks that have won a victory, while the rest bade him flap his elbows against his sides, like (*lit.* in lieu of) wings.'

We find representations of cock-fighting on ancient gems and vase-paintings; and, if the

μετὰ ταῦτ' ἐγὼ μὲν ἀπεκομίσθην ὑπὸ τῶν παρατυχόντων γυμνός, οὗτοι δ' ᾤχοντο θοἰμάτιον λαβόντες μου. ὡς δ' ἐπὶ τὴν θύραν ἦλθον, κραυγὴ καὶ βοὴ τῆς μητρὸς καὶ τῶν θεραπαινίδων ἦν, καὶ μόγις[f] *ποτ' εἰς βαλανεῖον ἐνεγκόντες με καὶ περιπλύναντες ἔδειξαν τοῖς ἰατροῖς. ὡς οὖν ταῦτ' ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.*

ΜΑΡΤΥΡΕΣ.

10 *Συνέβη τοίνυν ὦ ἄνδρες δικασταὶ καὶ Εὐξίθεον* 1260
τουτονὶ τὸν Χολλείδην, ὄνθ' ἡμῖν συγγενῆ, καὶ Μει-

[f] *μόγις* Z, Bekker st. *et* Bl. *cum* S. *μόλις* Dind.

authority of Aelian (var. hist. II 28) may be trusted, it was a political institution at Athens, and took place in the public theatre once a year. (See esp. Becker's *Charicles*, p. 77 n., also pp. 80—81, where the whole scene described in the text is admirably woven in with the adventures of Charicles.)

[Plato, Theaet. p. 164 *φαινόμεθά μοι ἀλεκτρύονος ἀγεννοῦς δίκην, πρὶν νενικηκέναι, ἀποπηδήσαντες ἀπὸ τοῦ λόγου ᾄδειν.* Ar. Vesp. 705 *κᾆθ' ὅταν οὗτός γ' ἐπισίζῃ ἐπὶ τῶν ἐχθρῶν τιν' ἐπιρρύξας, ἀγρίως αὐτοῖς ἐπιπηδᾷς.* The fighting cock springs upon its adversary, and uses its spur to strike the head. P.]

γυμνός] sc. *ἄνευ τοῦ ἱματίου*, stripped of his cloak, as is clearly shown by the following clause. Or. 21 § 216 *γυμνὸς ἐν τῷ χιτωνίσκῳ.* Aeschin. 1 § 26 *ῥίψας θοἰμάτιον γυμνὸς ἐπαγκρατίαζεν.* Ar. Lys. 150 *ἐν τοῖς χιτωνίοισι...γυμναί.* Nub. 497 *κατάθου θοἰμάτιον...γυμνοὺς εἰσιέναι νομίζεται.* Hermann *Privatalt.* § 21 p. 175 Blümner.—*ᾤχοντο*, in its usual pluperfect sense, 'after stripping me of my cloak, they had taken to their heels.'—*ἦλθον*, possibly first person singular, but more probably third person plural, referring to *οἱ παρατυχόντες.* But cf. § 20 *ὑγιὴς ἐξελθὼν φοράδην ἦλθον οἴκαδε.*

εἰς βαλανεῖον] a *public* bath, as is shown by § 10 *ἵνα μὴ μακρὰν φεροίμην οἴκαδε ἐκ τοῦ βαλανείου.* See Becker's *Charicles*, p. 147—152.—For the context, cf. Lysias, fragm. 75 (of a boy who had been severely thrashed) *οὐ δυναμένου δὲ βαδίζειν ἐκόμισαν αὐτὸν εἰς τὸ δεῖγμα ἐν κλίνῃ, καὶ ἐπέδειξαν πολλοῖς Ἀθηναίων.*

§ 10. *I was followed to the bath by Midias and by a relative of mine who was returning with him from dinner; and as I was too weak to be carried home again that evening, I was taken to the house of Midias for the night, as will be proved by evidence.*

10. *Χολλείδην*] 'Of *Χολλεῖδαι*,' (O. 35 § 20), a *deme* of the tribe Leontis, probably situated south of Hymettus and west of *Mons Anhydrus*, or Hymettus minor

δίαν μετὰ τούτου, ἀπὸ δείπνου ποθὲν ἀπιόντας περιτυχεῖν πλησίον ὄντι μοι τῆς οἰκίας ἤδη, καὶ εἰς τὸ βαλανεῖον φερομένῳ παρακολουθῆσαι, καὶ ἰατρὸν ἄγουσι παραγενέσθαι. οὕτω δ' εἶχον ἀσθενῶς, ὥσθ', ἵνα μὴ μακρὰν φεροίμην οἴκαδε ἐκ τοῦ βαλανείου, ἐδόκει τοῖς παροῦσιν ὡς τὸν Μειδίαν ἐκείνην τὴν ἑσπέραν κομίσαι[g] καὶ ἐποίησαν οὕτω[h]. λάβ' οὖν καὶ τὰς τούτων μαρτυρίας, ἵν' εἰδῆθ' ὅτι πολλοὶ συνίσασιν ὡς ὑπὸ τούτων ὑβρίσθην.

ΜΑΡΤΥΡΙΑΙ.

Λαβὲ δὴ καὶ τὴν τοῦ ἰατροῦ μαρτυρίαν.

ΜΑΡΤΥΡΙΑ.

Τότε μὲν τοίνυν παραχρῆμα ὑπὸ τῶν πληγῶν ὧν[i] 11
ἔλαβον καὶ τῆς ὕβρεως οὕτω διετέθην, ὡς ἀκούετε καὶ μεμαρτύρηται παρὰ πάντων ὑμῖν τῶν εὐθὺς ἰδόντων. μετὰ ταῦτα[j] δὲ τῶν μὲν οἰδημάτων τῶν ἐν τῷ προσώπῳ

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[g] + *με* Bekker, Dind. *om.* Z *et* Bl. *cum* S.

[h] S (Bl.). *οὕτως* Dind.

[i] Bekker. *ἃς* Z *cum* SAQrk.

[j] *δὲ ταῦτα vulgo, propter syllabas breves transposuit* Bl.

(Leake's *Athens* II 57 and Wordsworth's *Athens and Attica*, chap. xxv).—*τουτονὶ* implies that Euxitheus was present in court; the other, Midias (probably the same as the subject of the well-known oration of Dem.), was absent.—*τῆς οἰκίας*, Ariston's home.

τὸ βαλανεῖον] *with* the article, in reference to *βαλανεῖον* already mentioned *without* the article. So in § 7, *ἐν ἀγορᾷ ... εἰς τὴν ἀγοράν*.

ἄγουσι] The construction is *καὶ παραγενέσθαι αὐτοῖς ἄγουσιν ἰατρόν*.

ὡς τὸν Μειδίαν] 'to Midias' house.' For *ὡς* introducing an accusative of motion towards a *person*, cf. Thuc. IV 79 *ἀφίκετο ὡς Περδίκκαν καὶ ἐς τὴν Χαλκιδικήν*.

§§ 11, 12. *The surgeon and others have deposed to the immediate consequences of the assault; afterwards, though he expressed no great fears about my external bruises, unintermittent attacks of fever ensued, attended by extreme internal pain. I was quite unable to eat; and, but for a violent discharge of blood at a critical time, death would have resulted, as will be proved by medical evidence.*

*καὶ τῶν ἑλκῶν οὐδὲν ἔφη φοβεῖσθαι λίαν ὁ ἰατρός,
πυρετοὶ δὲ παρηκολούθουν μοι συνεχεῖς καὶ ἀλγή-
ματα, ὅλου μὲν τοῦ σώματος πάνυ σφοδρὰ καὶ δεινά,
μάλιστα δὲ τῶν πλευρῶν καὶ τοῦ ἤτρου, καὶ τῶν*
12 *σιτίων ἀπεκεκλείμην*[k]. *καὶ ὡς μὲν ὁ ἰατρὸς ἔφη, εἰ
μὴ κάθαρσις αἵματος αὐτομάτη μοι πάνυ πολλὴ
συνέβη περιωδύνῳ τ'*[l] *ὄντι καὶ ἀπορουμένων*[m] *ἤδη,
κἂν ἔμπυος γενόμενος διεφθάρην· νῦν δὲ τοῦτ' ἔσωσε
τὸ αἷμ' ἀποχωρῆσαν. ὡς οὖν καὶ ταῦτ' ἀληθῆ λέγω,
καὶ παρηκολούθησέ μοι τοιαύτη νόσος ἐξ ἧς εἰς* 1261
*τοὔσχατον ἦλθον, ἐξ ὧν ὑπὸ τούτων ἔλαβον πληγῶν,
λέγε τὴν τοῦ ἰατροῦ μαρτυρίαν καὶ τὴν τῶν ἐπισκο-
πούντων.*

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[k] Bekker *cum* A. *ἀποκεκλείσμην* Z *cum* FQr. *απεκλεισμην* S.

[l] *propter hiatum addidit* Bl.

[m] *propter hiatum scripsit* Bl. *coll.* 55 § 26 *extr.* *ἀπορουμένῳ* *vulgo.*

11. *τῶν σιτίων ἀπεκεκλείμην*] 'I was cut off from, debarred from, my food,' 'too ill to eat anything.' Hesychius explains *ἀποκεκλῆσθαι σιτίων· ἀνορέκτως ἔχειν τροφῆς.*—Strict Atticists prefer *ἀπεκεκλήμην* (from old Attic *κλῄω*) to *ἀπεκεκλείμην* and *ἀπεκεκλείσμην* (Veitch, *Gk. Verbs*).—*ἦτρου*, 'the pit of the stomach.'

12. *εἰ μὴ—διεφθάρην*] 'If a copious discharge of blood had not spontaneously occurred, while I was in extreme agony and at the very crisis of the malady, I should have died of internal suppuration.' [An injury, caused by the stamping upon him when down, was relieved at last by passing blood from some internal hemorrhage. P.] *περιωδύνῳ* is possibly a technical term; at any rate it is used by Hippocrates, 'the Father of Medicine,' and he also has *περιωδυνεῖν*, *περιωδυνία* and *περιωδυνᾶσθαι* [cf. Aesch. Ag. 1423 *μοῖρα μὴ περιώδυνος μηδὲ δεμνιοστήρης.* P.]

ἔμπυος] See *Excursus* (*B*), p. 238.

τοῦτ' ἔσωσε] The construction is *τοῦτο τὸ αἷμα, ἀποχωρῆσαν, ἔσωσέ με*, 'the passing of this blood saved my life.'

παρηκολούθησε—πληγῶν] Constr. *τοιαύτη νόσος, ἐξ ἧς εἰς τοὔσχατον ἦλθον, παρηκολούθησέ μοι ἐκ τῶν πληγῶν, ἃς ὑπὸ τούτων* (sc. Conon, Ctesias and Theogenes) *ἔλαβον.*

τῶν ἐπισκοπούντων] 'those who came to see me,' 'visited me in illness.' Xen. Cyrop. VIII 2 § 25 *ὁπότε τις ἀσθενήσειε τῶν θεραπεύεσθαι ἐπικαιρίων, ἐπεσκόπει καὶ παρεῖχε πάντα ὅτου ἔδει*; also in *middle*, Xen. Mem.

ΜΑΡΤΥΡΙΑΙ.

Ὅτι μὲν τοίνυν οὐ μετρίας τινὰς καὶ φαύλας 13
λαβὼν πληγάς, ἀλλ' εἰς πᾶν ἐλθὼν διὰ τὴν ὕβριν καὶ τὴν ἀσέλγειαν τὴν τούτων, πολὺ τῆς προσηκούσης ἐλάττω δίκην εἴληχα, πολλαχόθεν νομίζω δῆλον ὑμῖν γεγενῆσθαι. οἴομαι[n] δ' ὑμῶν ἐνίους θαυμάζειν, τί[o] ποτ' ἐστὶν ἃ πρὸς ταῦτα τολμήσει Κόνων λέγειν. βούλομαι δὴ προειπεῖν ὑμῖν, ἃ ἐγὼ πέπυσμαι λέγειν αὐτὸν παρεσκευάσθαι, ἀπὸ τῆς ὕβρεως καὶ τῶν

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[n] Z *et* Bl. *cum* S. οἶμαι Dind.

[o] Z *et* Bl. *cum* S. τίνα *syllabis brevibus* A (Dind.).

III 11 § 10 ἀρρωστήσαντος φίλου φροντιστικῶς ἐπισκέψασθαι. Or. 59 § 56 τὰ πρόσφορα τῇ νόσῳ φέρουσαι καὶ ἐπισκοπούμεναι. Two MSS (FQ) read ἐπισκοπουμένων in the text.

§§ 13—15. *Let me now tell you beforehand of the course which Conon will take in his reply. He will divert your attention from the facts and try to throw ridicule on the whole affair. He will tell you it was only the playful pleasantry that is common among young men about town. He will misrepresent us as just like his sons in character, and only different in being hard on other people. But the jury will be inflicting what I may call a fresh outrage upon me, if they are going to believe the defendant's bare assertion about our respective characters and to allow no weight to the evidence of our life and conduct.*

13. εἰς πᾶν ἐλθὼν] While πᾶν ποιεῖν and πάντα ποιεῖν are invariably used in the active sense of 'straining every nerve,' 'leaving no stone unturned,' εἰς πᾶν ἐλθεῖν and similar phrases have often (like εἰς τοὔσχατον ἐλθεῖν of the last section) the passive notion of being reduced to the utmost extremity, as in the present passage.

Thus (i) in *active* sense we have Xen. Cyr. V 4 § 26 πάντα ἐποίουν πείθοντες τὸν βασιλέα, Anab. III 1 § 18 ἐπὶ πᾶν ἔλθοι, ὡς ἡμᾶς τὰ ἔσχατα αἰκισάμενος πᾶσιν ἀνθρώποις φόβον παράσχοι, Soph. O. T. 265 κἀπὶ πάντ' ἀφίξομαι ζητῶν τὸν αὐτόχειρα.

(ii) in *passive*; Xen. Hell. VI 1 § 12 οἶδα δέ, ὑφ' οἵας δυνάμεως ...εἰς πᾶν ἀφίκετο βασιλεύς, and V 4 § 29. Plato Symp. 194 A μάλ' ἂν φοβοῖο καὶ ἐν παντὶ εἴης.

τῆς προσηκούσης ἐλάττω δίκην] 'I have entered on an action much below the merits of the case.' Cf. latter half of § 1.

τί ποτ' ἐστὶν ἃ] 'what is the import (*sing.*) of the points (*plur.*) that Conon will urge in his defence.' τί...ἃ is more idiomatic than τίνα...ἅ, and is found in Or. 4 § 10; 19 § 288; 21 § 154; 36 § 28; 37 § 36.

ἀπὸ τῆς ὕβρεως—ἐρεῖν] In apposition to λέγειν παρεσκευάσθαι, and loosely dependent on πέπυσμαι. A simpler construction

πεπραγμένων τὸ πρᾶγμ' ἄγοντ' εἰς γέλωτα καὶ
14 σκώμματ' ἐμβαλεῖν πειράσεσθαι, καὶ ἐρεῖν ὡς εἰσὶν
ἐν τῇ πόλει πολλοί, καλῶν κἀγαθῶν ἀνδρῶν υἱεῖς,
οἳ παίζοντες οἷ' ἄνθρωποι νέοι σφίσιν αὐτοῖς ἐπωνυ-
μίας πεποίηνται, καὶ καλοῦσι τοὺς μὲν ἰθυφάλλους,
τοὺς δὲ αὐτοληκύθους, ἐρῶσι δ' ἐκ τούτων ἑταιρῶν
τινές, καὶ δὴ καὶ τὸν υἱὸν τὸν ἑαυτοῦ εἶναι[p] τούτων
ἕνα, καὶ πολλάκις περὶ[q] ἑταίρας καὶ εἰληφέναι καὶ
δεδωκέναι πληγάς, καὶ ταῦτ' εἶναι νέων ἀνθρώπων.

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[p] εἶναι τὸν ἑαυτοῦ *propter hiatum mavult* Bl.

[q] Bekker. καὶ περὶ Z *cum* S.

might have been brought about by closing the sentence with παρεσκευάσθαι and then beginning afresh with some such sentence as the following; ἀπὸ γὰρ τῆς ὕβρεως καὶ τῶν πεπραγμένων τὸ πρᾶγμ' ἀπαγαγών, εἰς γέλωτα καὶ σκώμματ' ἐμβαλεῖν πειράσεται, καὶ ἐρεῖ κ.τ.λ., and in English translation this would give a clearer sense than any slavishly literal rendering of the more complex construction in the text. 'He will divert your attention from the wanton outrage and the actual facts of the case; and will endeavour to turn the whole affair into mere jest and ridicule.' That εἰς γέλωτα καὶ σκώμματ' ἐμβαλεῖν is the construction (and not καὶ σκώμματ' ἐμβαλεῖν πειράσεσθαι, καὶ ἐρεῖν,) appears from (Dem.) Phil. 4 § 75 τὸ πρᾶγμα εἰς γέλωτα καὶ λοιδορίαν ἐμβαλόντες, cf. Aeschin. 1 § 135 τὸ πρᾶγμα εἰς ὄνειδος καὶ κινδύνους καθιστὰς and εἰς γέλωτα καὶ λῆρόν τινα προτρεπόμενος ὑμᾶς, Lysias frag. 75, 1 εἰς σκώμματά τε αὐτοῖς καὶ ἀντιλογίαν καὶ ἔχθραν καὶ λοιδορίαν κατέστησαν.—Hesychius, referring perhaps to the present passage, has σκώμματα· λοιδορήματα γέλωτος χάριν.

14. ὡς εἰσὶν] followed in the latter half of the sentence by acc. c. inf.

καλῶν κἀγαθῶν] See note on Or. 45 § 65. Trans. 'sons of respectable people, who in their youthful frolics have given themselves nicknames.' σφίσιν αὐτοῖς is not necessarily limited to the reflexive sense, but is sometimes almost equivalent to the *reciprocal* pronoun ἀλλήλοις (see Isocr. Paneg. § 34).

ἰθυφάλλους........αὐτοληκύθους] 'Priapi and Sileni' (Kennedy, following the French translation of Auger). For an account of the word αὐτολήκυθος, see *Excursus* (*C*), p. 239.

ἐρῶσι κ.τ.λ.] The construction is τινὲς ἐκ τούτων ἐρῶσιν ἑταιρῶν.—καὶ δὴ καί, used in descending to particulars after a general statement. Or. 55 § 10. The construction here changes from ὡς εἰσὶν to the acc. with infin.—περὶ ἑταίρας gen. sing., not acc. pl. [See Or. 21 § 36, p. 525 and Ar. Vesp. 1345. P.]

εἰληφέναι καὶ δεδωκέναι πληγὰς] These phrases are used *ἡμᾶς δὲ πάντας τοὺς ἀδελφοὺς παροίνους μέν τινας καὶ ὑβριστὰς κατασκευάσει*[r], *ἀγνώμονας δὲ καὶ πικρούς. ἐγὼ δ' ὦ ἄνδρες δικασταὶ χαλεπῶς ἐφ' οἷς πέπονθα ἐνηνοχώς, οὐχ ἧττον τοῦτ' ἀγανακτήσαιμ' ἂν καὶ ὑβρισθῆναι νομίσαιμ', εἰ οἷόν τ' εἰπεῖν, εἰ ταῦτ' ἀληθῆ δόξει* Κόνων *οὑτοσὶ λέγειν περὶ ἡμῶν, καὶ τοσαύτη τις ἄγνοια παρ' ὑμῖν ἐστιν, ὥσθ', ὁποῖος*

to supply the lack of a perf. passive and active of *τύπτω*, as the Attic prose writers know nothing of the forms *τετύφθαι* and *τετυφέναι*. See *Excursus* (*A*) on *τύπτω*, p. 233.

παροίνους...*ὑβριστὰς*...*ἀγνώμονας*...*πικρούς*] 'drunken' and 'insolent'; 'unforgiving' and 'ill-tempered.' The four epithets, separated into pairs by *μὲν* and *δὲ*, refer, in the case of the first couple, to the actual 'assault and battery'; in the case of the second, to the lawsuit that had since resulted. Conon will in his artful way represent us as really wild sparks like himself, who are yet inconsistent enough to be churlish and ill-tempered, instead of genial and good-humoured as *πάροινοι* and *ὑβρισταὶ* ought to be.

κατασκευάσει] in bad sense, 'to misrepresent,' 'trump up a story,' 'make out falsely.' Cf. Or. 45 § 82. *παρασκευάσειν*, the reading of the Paris MS S, depends, like the previous infinitives, on the remote verb *πέπυσμαι*.

15. *χαλεπῶς* —— *ἐνηνοχὼς*] 'deeply indignant as I am at the wrongs I have suffered.' Or. 21 § 108 *ἐγὼ γὰρ ἐνηνοχὼς χαλεπῶς ἐφ' οἷς περὶ τὴν λῃτουργίαν ὑβρίσθην, ἔτι πολλῷ χαλεπώτερον*...*τούτοις τοῖς μετὰ ταῦτα ἐνήνοχα καὶ μᾶλλον ἠγανάκτησα*, 58 § 55 *πρᾴως ἐπὶ τοῖς γιγνομένοις φέρειν*.

τοῦτ' ἀγανακτήσαιμ' ἂν] Or. 8 § 55 *ἀγανακτῶ αὐτὸ τοῦτο, εἰ τὰ μὲν χρήματα λυπεῖ τινας ὑμῶν εἰ διαρπασθήσεται*. *ἀγανακτεῖν* and similar verbs implying mental emotion, though occasionally followed by a dative with or without *ἐπί*, may have an accusative neuter pronoun (Kühner, *Gk. Gr.* § 410, c. 5). *τοῦτο* is explained by *εἰ ἀληθῆ δόξει οὑτοσὶ λέγειν*, 'deeply indignant as I am at the wrongs I have suffered, I should (if you will pardon the expression) feel no less resentment at this, and should deem myself the victim of a fresh outrage at your hands, if Conon shall be held by you to be speaking the truth about us...' *εἰ οἷόν τ' εἰπεῖν* must be understood as a parenthetical apology for using the strong word *ὑβρισθῆναι* to express the outrage that will be done to the feelings of honest men like the plaintiff, if the defendant's bare assertion is believed outright, and if no weight is given to the unimpeachable testimony pre-

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[r] Bekker. *παρασκευάσειν* Z *cum* S, *κατεσκευάκασι* FQ, *κατασκευάσει* Akr.

ἄν τις ἕκαστος εἶναι φῇ, ἢ ὁ πλησίον αὐτὸν αἰτιάσηται, 1262
τοιοῦτος νομισθήσεται, τοῦ δὲ καθ' ἡμέραν βίου
καὶ τῶν ἐπιτηδευμάτων μηδ' ὁτιοῦν ἔσται τοῖς μετρίοις
16 ὄφελος. ἡμεῖς γὰρ οὔτε παροινοῦντες οὔθ'[s] ὑβρίζοντες
ὑπ' οὐδενὸς ἀνθρώπων ἑωράμεθα, οὔτ'[t] ἄγνωμον
οὐδὲν ἡγούμεθα ποιεῖν, εἰ περὶ ὧν ἠδικήμεθ' ἀξιοῦμεν
κατὰ τοὺς νόμους δίκην λαβεῖν. ἰθυφάλλοις δὲ
καὶ αὐτοληκύθοις συγχωροῦμεν εἶναι τοῖς υἱέσι τοῖς
τούτου, καὶ ἔγωγ' εὔχομαι τοῖς θεοῖς εἰς Κόνωνα καὶ
τοὺς υἱεῖς τοὺς τούτου καὶ ταῦτα καὶ τὰ τοιαῦθ'

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[s] οὔθ' *retinent* Bekker st. *et* Bl. οὐδ' Baiter (Dind., Westermann). [t] οὐδ' Bekker st.

sented on the other hand by the exemplary lives of himself and his brothers. Cf. esp. § 43 εἰ προσυβρισθεὶς ἄπειμι καὶ δίκης μὴ τυχών.

αὐτὸν αἰτιάσηται] sc. εἶναι, 'that, whatever sort of person each one shall assert that he is, or his neighbour shall accuse him of being, such he shall be considered to be, and respectable citizens shall have no advantage at all from their daily life or conduct.' Aeschin. 1 § 153 and 2 § 5.

§§ 16—17. *As to our own character, no one has ever seen us playing drunken pranks on other people, and we cannot see how our opponents can call us 'hard' on others, if we claim redress. Conon's sons are welcome to belong to their disorderly clubs, but I shall be surprised if this or any similar plea will enable them to escape with impunity.*

16. οὔτε παροινοῦντες οὔθ' ὑβρίζοντες...οὔτ' ἄγνωμον κ.τ.λ.] This refers to § 14 παροίνους...καὶ ὑβριστὰς...ἀγνώμονας δὲ καὶ πικρούς. The MSS have οὔθ' ὑβρίζοντες, which Baiter alters into οὐδ' ὑβρίζοντες. It would be better perhaps (with Bekker) to leave οὔθ' ὑβρίζοντες, and to alter οὔτ' into οὐδ' before ἄγνωμον. The break between the second clause and the first is clearly greater than between the two parts of the first (viz. παροινοῦντες and ὑβρίζοντες). Cf. 55 § 4.

ἑωράμεθα] This form of the perf. of ὁρᾶν (for the older Attic ὦμμαι, the 2nd and 3rd sing. of which occur in Dem.) is also found in Isocr. antid. § 110 μηδ' ὑφ' ἑνὸς ἑωρᾶσθαι, possibly the earliest extant instance (the *antidosis* belongs to B.C. 355; the present speech to B.C. 355 or 341).

συγχωροῦμεν κ.τ.λ.] 'They are welcome, so far as we are concerned, to the attributes of Priapi and Sileni.' For the dat. cf. § 44 πονηροτέροις ἡμῖν εἶναι συνέβαινεν.

εἰς...τρέπεσθαι] *Passive;* 'recoil upon the head of.' Ar. Ach. 833 πολυπραγμοσύνη νῦν εἰς ἅπαντα τρέπεσθαι. οὗτοι γάρ εἰσιν οἱ τελοῦντες 17 ἀλλήλους τῷ ἰθυφάλλῳ, καὶ τοιαῦτα[u] ποιοῦντες ἃ πολλὴν αἰσχύνην ἔχει καὶ λέγειν, μή τί[v] γε δὴ ποιεῖν ἀνθρώπους μετρίους. ἀλλὰ τί ταῦτ' ἐμοί; θαυμάζω γὰρ ἔγωγ', εἴ τίς ἐστι πρόφασις παρ' ὑμῖν ἢ σκῆψις εὑρημένη δι' ἥν, ἂν ὑβρίζων τις ἐξελέγχηται καὶ τύπτων, δίκην οὐ δώσει. οἱ μὲν γὰρ νόμοι πολὺ τἀναντία καὶ τὰς ἀναγκαίας προφάσεις, ὅπως

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[u] Bekker. τὰ τοιαῦτα Z *cum* S.

[v] *μή τι G. H. Schaefer* (Bl.). *μὴ ὅτι codices.*

κεφαλὴν τρέποιτ' ἐμοί. (Dem.) Epist. 4 § 10 οἱ θεοὶ...τὴν ἄδικον βλασφημίαν εἰς κεφαλὴν τῷ λέγοντι τρέπουσι.

οἱ τελοῦντες κ.τ.λ.] 'who initiate one another with Priapic rites.'—πολλὴν αἰσχύνην ἔχει, 'involve deep disgrace even to speak of.'

τί ταῦτ' ἐμοί;] Or. 20 § 20 τί τοῦτο τῇ πόλει;

§§ 17 *cont.*—20. *Compare the spirit of our laws with the course which Conon proposes to take. The laws, I understand, affix a penalty even to minor offences, to preclude the perpetration of graver crimes, to prevent men (for instance) being gradually led from wrangling to blows, from blows to wounding, from wounding to murder. Conon, on the contrary, will make light of the whole affair and will raise a laugh to get himself acquitted. Why! none of you would have laughed had you seen me when I was being brutally maltreated, and when I was carried helpless to my home.*

17. θαυμάζω γάρ] The English idiom requires us to leave γὰρ untranslated, or else to render it by the exclamation 'why!'—'What has all this to do with me? Why! for my part, I am surprised if in *your* court they have discovered any plea or pretext, thanks to which a man, if convicted of outrage and assault, shall escape punishment.'

οἱ μὲν γὰρ νόμοι κ.τ.λ.] The influence of μὲν extends over the whole of the two following sections, it is then caught up and reiterated in the clause εἶτ' ἐν μὲν τοῖς νόμοις οὕτως. Thus the first μὲν has no δὲ corresponding to it, until we reach the words ἂν δ' εἴπῃ Κόνων. 'The laws say so and so...' 'Not so, Conon.'

τὰς ἀναγκαίας προφάσεις κ.τ.λ.] i.e. προείδοντο ὅπως μηδ' αἱ ἀναγκαῖαι προφάσεις μείζους γίγνωνται. Thus, to use the illustration supplied below by Demosthenes himself, abusive language is a πρόφασις for dealing blows; blows again are a πρόφασις for inflicting wounds; lastly wounding, for homicide. The laws, by ordaining a legal remedy at each stage, (1) defamation, (2) assault, (3) unlawful wounding, interpose to prevent defamation, which is a pretext for assault, growing into actual assault; similarly assault developing into unlawful

μὴ μείζους γίγνωνται, προείδοντο, οἷον (ἀνάγκη γάρ
μοι ταῦτα καὶ ζητεῖν καὶ πυνθάνεσθαι διὰ τοῦτον
18 γέγονεν) εἰσὶ κακηγορίας δίκαι· φασὶ τοίνυν ταύτας
διὰ τοῦτο γίγνεσθαι, ἵνα μὴ λοιδορούμενοι τύπτειν
ἀλλήλους προάγωνται. πάλιν αἰκείας εἰσίν· καὶ

wounding, and ultimately into homicide. 'The laws on *their* part have, on the very contrary, made provision, even in the case of pleas of necessity, against the development of those pleas into greater proportions.'

[The meaning is, that the law, by providing an action for every kind of insult, has made it unnecessary for the aggrieved to resort to extremes in avenging himself. By *ἀναγκαία πρόφασις* he means, for instance, the plea, that a man was insulted and he was *obliged* to resent it. The law says, 'that obligation must not be pressed too far, so as to justify you in taking very violent revenge.' P.]

ἀνάγκη γὰρ...γέγονεν] The plaintiff, a quiet, common-place soldier, is here on the verge of displaying a familiarity with legal technicalities which would be not only out of keeping with his ordinary character, but would be resented by those of the jury who happened to be less versed in legal learning. The court would be apt to ascribe his acquaintance with the details of the law of defamation, assault, and homicide to that over-litigiousness of character which was as unpopular, as it was common, at Athens; or, at the very least, they would put him down as a pedant. Hence Demosthenes introduces a passing apology, explaining that the plaintiff, honest man, owes all his legal lore to the enquiries rendered imperative by the maltreatment he had received from the defendant. Hence, too, the skilful disclaimer of superior knowledge involved in the subsequent phrases; *φασί...γίγνεσθαι* and *ἀκούω...εἶναι*. Cf. Lysias Or. 19 §§ 5, 53.

κακηγορίας δίκαι] Isocr. *κατὰ Λοχίτου* (an *αἰκείας δίκη* like the present case), § 3 (*οἱ θέντες ἡμῖν τοὺς νόμους*) *οὕτω...ἡγήσαντο δεινὸν εἶναι τὸ τύπτειν ἀλλήλους, ὥστε καὶ περὶ κακηγορίας νόμον ἔθεσαν, ὃς κελεύει τοὺς λέγοντάς τι τῶν ἀπορρήτων πεντακοσίας δραχμὰς ὀφείλειν*. Cf. Lysias, Or. 10 §§ 6—12, Dem. Or. 23 § 50, Or. 21 § 32.

18. *λοιδορούμενοι*] 'reviling *one another*.' For the reciprocal sense, cf. Or. 54 § 40 *ἐχθροὺς ἀλλήλοις ... λοιδορουμένους καὶ πλύνοντας αὐτοὺς τἀπόρρητα*, and Ar. Ranae 857 *πρᾳόνως ἔλεγχ' ἐλέγχου, λοιδορεῖσθαι δ' οὐ θέμις ἄνδρας ποιητὰς ὥσπερ ἀρτοπωλίδας*.

As *λοιδορεῖσθαι* is used in the sense of *κακῶς ἀγορεύειν ἀλλήλους*, so also *λοιδορία* sometimes occurs as an equivalent for the precise technical term *κακηγορία*. Hence we have in Ar. Vesp. 1207 *εἷλον διώκων λοιδορίας* (sc. *κακηγορίας*), and Athenaeus (XII 525 B) quotes from Antiphon *ἐν τῷ κατ' Ἀλκιβιάδου λοιδορίας*, possibly meaning a speech in a *δίκη κακηγορίας*.

αἰκείας] sc. *δίκαι*, of which the present case is an instance.

For the general sense of the

ταύτας ἀκούω διὰ τοῦτ' εἶναι τὰς δίκας, ἵνα μηδείς,
ὅταν ἥττων ᾖ, λίθῳ μηδὲ τῶν τοιούτων ἀμύνηται
μηδενί, ἀλλὰ τὴν ἐκ τοῦ νόμου δίκην ἀναμένῃ. τραύ-
ματος πάλιν εἰσὶ γραφαί, τοῦ μὴ τιτρωσκομένων τι-
νῶν φόνους γίγνεσθαι. τὸ φαυλότατον, οἶμαι, τὸ τῆς 19
λοιδορίας, πρὸ τοῦ τελευταίου καὶ δεινοτάτου προ-
εώραται, τοῦ μὴ φόνον γίγνεσθαι, μηδ' ὑπάγεσθαι
1263 κατὰ μικρὸν[w] ἐκ μὲν λοιδορίας εἰς πληγάς, ἐκ δὲ

following sentences, cf. Isocr.. κατὰ Λοχίτου, Or. 20 § 8 πολλάκις ἤδη μικραὶ προφάσεις μεγάλων κακῶν αἴτιαι γεγόνασι, καὶ...διὰ τοὺς τύπτειν τολμῶντας εἰς τοῦτ' ἤδη τινὲς ὀργῆς προήχθησαν ὥστ' εἰς τραύματα καὶ θανάτους καὶ φυγὰς καὶ τὰς μεγίστας συμφορὰς ἐλθεῖν.

ἵνα μηδεὶς—μηδενί] 'to prevent anyone, when he is the weaker party, defending himself with a stone or any similar missile,' e.g. an ὄστρακον, Lysias Or. 4 § 6. See Mahaffy's *Social Greece*, pp. 358—360.

τραύματος...γραφαί] (Lysias) Or. 6 κατ' Ἀνδοκίδου § 15 ἄν τις ἀνδρὸς σῶμα τρώσῃ, κεφαλὴν ἢ πρόσωπον ἢ χεῖρας ἢ πόδας, αὐτὸς κατὰ τοὺς νόμους τοὺς ἐξ Ἀρείου πάγου φεύξεται τὴν ἀδικηθέντος πόλιν, καὶ ἐὰν κατίῃ, ἐνδειχθεὶς θανάτῳ ζημιωθήσεται.

The fourth oration of Lysias is a very brief defence in a case of 'malicious wounding,' περὶ τραύματος ἐκ προνοίας. The defendant endeavours to prove the absence of πρόνοια (malice prepense), and implores the βουλή (ἡ ἐξ Ἀρείου πάγου) to rescue him from banishment (§§ 6, 12, 20). In Aeschin. Ctesiph. § 51 a τραύματος γραφή instituted by Demosthenes is mentioned; and Demosthenes himself (Aristocr. § 24) quotes the law τὴν βουλὴν δικάζειν φόνου καὶ τραύματος ἐκ προνοίας κ.τ.λ.

τοῦ μὴ...φόνους γίγνεσθαι] The *genitive* of a clause containing an accusative of the subject and an infinitive is often used (especially with μή) to denote the *object* or *motive*; the *dative*, the *means and instrument or cause* (Madvig's *Greek Syntax*, § 170, and the commentators on Thuc. II 102; VI 33; VIII 87 § 3).

19. τὸ τῆς λοιδορίας κ.τ.λ.] 'the least of these evils, *namely*, *abusive language*, has been provided for by the laws, for the avoidance of (πρὸ) &c.'—προεώραται, which may have either a middle or a passive sense, has here almost certainly the latter, especially as we have just had ἑωράμεθα as a *passive* in § 16. προεώραμαι occurs as passive in Arist. Met. II 1, and προεωρᾶσθαι as middle in Diod. Sic. XX 102. Westermann here supplies ὁ νόμος, and thus takes it as a middle; but Dem. in the present passage and its context appears to prefer the plural οἱ νόμοι, though ἐκ τοῦ νόμου occurs four lines back.

ἐκ λοιδορίας εἰς πληγάς] 40 § 32

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[w] κατὰ μικρὸν ὑπάγεσθαι *syllabis brevibus codices; transposuit* Bl.

πληγῶν εἰς τραύματα, ἐκ δὲ τραυμάτων εἰς θάνατον,
ἀλλ' ἐν τοῖς νόμοις εἶναι τούτων ἑκάστου τὴν δίκην,
μὴ τῇ τοῦ προστυχόντος ὀργῇ μηδὲ βουλήσει ταῦτα
20 κρίνεσθαι. εἶτ' ἐν μὲν τοῖς νόμοις οὕτως· ἂν δ' εἴπῃ
Κόνων "ἰθύφαλλοί τινές ἐσμεν ἡμεῖς συνηγμένοι[x],
"καὶ ἐρῶντες οὓς ἂν ἡμῖν δόξῃ παίομεν καὶ ἄγχομεν,"
εἶθ' ὑμεῖς γελάσαντες[y] ἀφήσετε; οὐκ οἴομαί[z]
γε. οὐ γὰρ ἂν γέλως ὑμῶν ἔλαβ' οὐδένα, εἰ παρὼν
ἐτύγχανεν, ἡνίχ' εἱλκόμην καὶ ἐξεδυόμην καὶ ὑβριζόμην,
καὶ ὑγιὴς ἐξελθὼν φοράδην ἦλθον οἴκαδε, ἐξεπεπηδήκει
δὲ [μετὰ ταῦθ'[a]]. ἡ μήτηρ, καὶ κραυγὴ καὶ
βοὴ τῶν γυναικῶν τοσαύτη παρ' ἡμῖν ἦν ὡσπερανεὶ
τεθνεῶτός τινος, ὥστε τῶν γειτόνων τινας πέμψαι

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[x] *συνηγμένοι vulgo* (Bl. *coll.* 19 § 281 *τοὺς θιάσους συναγούσης*; '*συλλέγειν pro συνάγειν fuit in quibusdam* 21 § 29, *sed συνάγουσα pro συλλ.* 59 § 31'). *συνειλεγμένοι* SAkr (cf. § 34).

[y] *γελάσαντες ὑμεῖς codices; propter syllabas breves transposuit* Bl.

[z] Z *et* Bl. *cum* S. *οἶμαι* Dind.

[a] *propter syllabas breves secl.* Bl. *μετὰ ταῦθ'*, '*quod ne sensui quidem convenit; cf. Aristid.* p. 387, *qui saltem non testatur μετὰ ταῦτα*'.

ἐξ ἀντιλογίας καὶ λοιδορίας πληγὰς συναψάμενος.

20. *ἐν μὲν τοῖς νόμοις*] reiterates *οἱ μὲν γὰρ νόμοι* in § 17.

ἰθύφαλλοι—ἄγχομεν] 'we belong to the Priapus-club, and in our love-affairs (§ 14) strike and throttle whom we choose.'

εἶθ'] an indignant exclamation.—*γελάσαντες ἀφήσετε.* Cf. Or. 23 § 206 *ἂν ἓν ἢ δύ' ἀστεῖα εἴπωσι...ἀφίετε.* Horace, Sat. II 1, 86 *solventur risu tabulae; tu missus abibis.*

εἱλκόμην—οἴκαδε] The rhetorician Aristides (Spengel, *Rhet. Graeci* II 495) quotes this sentence to exemplify *σφοδρότης*, or vehemence of style. On *ἐξεπεπηδήκει* he remarks, *οὐκ εἶπεν ἐξεληλύθει, ἀλλὰ ἐμφαντικώτερον τῇ ὀνομασίᾳ, ἐξεπεπηδήκει ἡ μήτηρ· ἐν γὰρ τῷ ὀνόματι ἡ ἔμφασις.*

φοράδην] Hesychius, *ὁ φερόμενος βασταγμῷ* [by the hands of men (not in a wheeled car) P.].

τεθνεῶτος] The compound tenses *ἀποθνήσκω, ἀποθανοῦμαι, ἀπέθανον* (which are frequent in Attic prose and comedy, but are not used in tragedy) have no corresponding perfect, but take instead the *simple* forms *τέθνηκα, τεθνάναι, τεθνεώς. ἀποτεθνεὼς* and the like are never found in Attic verse or prose (Cobet,

πρὸς ἡμᾶς ἐρησομένους ὅ τι ἐστὶ τὸ συμβεβηκός.
ὅλως δ' ὦ ἄνδρες δικασταὶ δίκαιον μὲν οὐδενὶ δήπου 21
σκῆψιν οὐδεμίαν τοιαύτην οὐδ' ἄδειαν ὑπάρχειν παρ'
ὑμῖν[b], δι' ἣν ὑβρίζειν ἔξεσται· εἰ δ' ἄρ' ἐστί τῳ, τοῖς
δι' ἡλικίαν τούτων τι πράττουσι, τούτοις ἀποκεῖσθαι
προσήκει τὰς τοιαύτας καταφυγάς, κἀκείνοις[c] οὐκ
εἰς τὸ μὴ δοῦναι δίκην, ἀλλ' εἰς τὸ τῆς προσηκούσης 22
ἐλάττω. ὅστις δ' ἐτῶν μέν ἐστι πλειόνων ἢ πεντήκοντα,
παρὼν δὲ νεωτέροις ἀνθρώποις καὶ τούτοις
υἱέσιν, οὐχ ὅπως ἀπέτρεψεν ἢ διεκώλυσεν, ἀλλ' αὐτὸς
ἡγεμὼν καὶ πρῶτος καὶ πάντων βδελυρώτατος
γεγένηται, τίν' ἂν οὗτος ἀξίαν τῶν πεπραγμένων

[b] *vulgo* (Bl.). ὑμῶν Bekker st. *cum* SAk '*quod cum* σκῆψιν *non convenit; adde quod sequitur* ἀποκεῖσθαι' Bl.

[c] Akr. καὶ ἐκείνοις Z *cum* S.

nov. lect. 29, and Veitch, *Greek verbs*).* Cf. Plato, Phaedo 64 A ἀποθνήσκειν τε καὶ τεθνάναι, and 71 C ἐκ τῶν τεθνεώτων, followed in the very next line by ἐκ τῶν ἀποθανόντων.

§§ 21—23. *It is only those who are misled by their youth into acts of outrage that deserve any indulgence, and even in their case, such indulgence ought not to get them off altogether, but should extend simply to mitigation of their penalty. But Conon is more than fifty years of age, and therefore inexcusable; and yet, instead of stopping younger men, and those his sons, from doing wrong, he was the ringleader of them all.*

Even the penalty of death would be too small for his crimes, for the conduct of his sons in their father's presence proves that he himself had no reverence for his own father.

21. δίκαιον μέν] The rule of strict justice, stated broadly (ὅλως, 'speaking generally'), as contrasted with the concessions granted in special cases on the principles of equity (or ἐπιείκεια) implied in the next sentence.

τούτοις] repeats the previous dative τοῖς...πράττουσι ('*to these, I say*'), and is itself emphatically reiterated in the subsequent κἀκείνοις, referring pointedly to the plaintiff's opponents.

εἰς] 'to the extent of.' For this sense, see my note on Eur. El. 1072. P.]

22. παρὼν δὲ—γεγένηται] Cf. § 6 ad fin.

τίν' ἂν—δίκην;] i.e. 'Is there *any* punishment to which *he* could submit, that would be adequate to his crimes?'—On ἀποθανόντα, cf. note on § 20, τεθνεῶτος.—With οἴομαι we understand ἀξίαν ἂν τῶν πεπραγμένων ὑποσχεῖν δίκην.—ἅπερ νυνί, sc. πεποιηκὼς φαίνεται.

ὑπόσχοι δίκην; ἐγὼ μὲν γὰρ οὐδ' ἀποθανόντ' οἴο-
μαι. καὶ γὰρ εἰ μηδὲν αὐτὸς εἴργαστο τῶν πεπραγ-
μένων, ἀλλ' εἰ παρεστηκότος τούτου Κτησίας ὁ υἱὸς 1264
ὁ τούτου ταῦθ' ἅπερ[d] νυνὶ πεποιηκὼς ἐφαίνετο, τοῦτον
23 ἐμισεῖτ' ἂν δικαίως. εἰ γὰρ οὕτω τοὺς ἑαυτοῦ προ-
ῆκται παῖδας, ὥστ' ἐναντίον ἐξαμαρτάνοντας ἑαυτοῦ,
καὶ ταῦτ' ἐφ' ὧν ἐνίοις θάνατος ἡ[e] ζημία κεῖται, μήτε
φοβεῖσθαι μήτ' αἰσχύνεσθαι, τί τοῦτον οὐκ ἂν εἰ-
κότως παθεῖν οἴεσθε; ἐγὼ μὲν γὰρ ἡγοῦμαι ταῦτ'
εἶναι σημεῖα τοῦ μηδὲ τοῦτον τὸν ἑαυτοῦ πατέρ'
αἰσχύνεσθαι· εἰ γὰρ ἐκεῖνον αὐτὸς ἐτίμα κἀδεδίει,
κἂν τούτους αὑτὸν ἠξίου.

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[d] Bekker st. *cum* S. + οὗτος Akr; 'non male' Bl.

[e] '*Non audeo secludere, quod feci 45 § 80; propter* ἐξαμαρτάνοντας *enim necessarius articulus videtur; sed puto scribendum* ἡ ζημία θάνατος [κεῖται].' Bl.

τοῦτον ἐμισεῖτ' ἂν δικαίως] 'even then you would have abhorred the defendant, and rightly too!' or (with Kennedy) 'even then he would have deserved your execration.'

23. προῆκται] Perfect passive with *middle* sense 'has had them brought up' (Liddell and Scott), or simply 'has trained them' (*gezogen hat*). This explanation is due to Reiske, and is probably right. But the general sense of προάγω, 'to lead on by little and little' (§ 18 προάγωνται), may perhaps warrant our understanding it of Conon's permitting his sons to be constantly taking liberties, and going step by step from bad to worse. προῆκται may in the latter case be rendered 'has spoilt' (*verzogen hat*, Westermann and G. H. Schaefer), but the two meanings are almost identical, and the general sense the same.

καὶ ταῦτ' ἐφ' ὧν—κεῖται] 'and that too in the case of acts, for some of which the penalty ordained is death' (referring to laws against ὕβρις and περὶ τῶν λωποδυτῶν, cf. § 1 *ad fin.*). ἐφ' ὧν ἐνίοις stands for ἐπὶ τούτων ὧν ἐνίοις [or, perhaps, καὶ ταῦτα (ἐξαμαρτάνοντας) ἐφ' ὧν ἐνίοις. P.].

τοῦτον] Conon; ἐκεῖνον, his father (who was probably dead, as we may take αἰσχύνεσθαι as an *imperfect* imperative); τούτους, his sons.—The construction of the last clause is ἠξίου ἂν καὶ τούτους (τιμᾶν καὶ δεδιέναι) αὑτόν.

§§ 24, 25. *Take and read the statutes on brutal outrage and on highway robbery, to both of which the defendant is amenable, though I have declined to claim redress under these statutes. Further, had death ensued, he*

Λαβὲ δή μοι καὶ τοὺς νόμους, τόν τε[f] τῆς ὕβρεως 24 καὶ τὸν περὶ τῶν λωποδυτῶν· καὶ γὰρ τούτοις ἀμφοτέροις ἐνόχους τούτους ὄψεσθε. λέγε.

ΝΟΜΟΙ.

Τούτοις τοῖς νόμοις ἀμφοτέροις ἐκ τῶν πεπραγμένων ἔνοχος Κόνων ἐστὶν οὑτοσί· καὶ γὰρ ὕβριζεν καὶ ἐλωποδύτει. εἰ δὲ μὴ κατὰ τούτους προειλόμεθ' ἡμεῖς δίκην λαμβάνειν, ἡμεῖς μὲν ἀπράγμονες καὶ μέτριοι φαινοίμεθ' ἂν εἰκότως, οὗτος δ' ὁμοίως πονηρός. καὶ μὴν εἰ παθεῖν τί μοι συνέβη, φόνου καὶ 25 τῶν δεινοτάτων ἂν ἦν ὑπόδικος. τὸν γοῦν τῆς Βραυ-

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[f] τόν τε *addidit* Dind. τοὺς Akr. *om.* Z *et* Bekker st. *cum* SQ.

would have been chargeable with murder.

24. τόν τε τῆς ὕβρεως] In Or. 21 (Mid.) § 46, a document is given, purporting to be the law in question.

τὸν περὶ τῶν λωποδυτῶν] The periphrasis is due to the fact that the crime has no name specially appropriated to it in Attic Greek of the best age (λωποδυσία is found only in a glossary, and λωποδυσίου δίκη in the rhetorician Hermogenes, fl. A.D. 170). Cf. § 1, where λωποδυτῶν ἀπαγωγὴ is parallel to ὕβρεως γραφαί.—See Mayor's note on Cicero, Phil. II § 8.—Xen. Mem. I 2 § 62 κατὰ τοὺς νόμους, ἐάν τις φανερὸς γένηται κλέπτων ἢ λωποδυτῶν ἢ βαλαντιοτομῶν ἢ τοιχωρυχῶν...τούτοις θάνατός ἐστιν ἡ ζημία.

ἀπράγμονες καὶ μέτριοι] 'Quiet and inoffensive,' Or. 42 § 12 μετρίου καὶ ἀπράγμονος πολίτου μὴ εὐθὺς ἐπὶ κεφαλὴν εἰς τὸ δικαστήριον βαδίζειν. Cf. Or. 36 § 53.

25. εἰ παθεῖν τί μοι συνέβη] a common euphemism for death. Or. 23 (Aristocr.) § 59 ἂν ἄρα συμβῇ τι παθεῖν ἐκείνῳ. A frequent formula at the beginning of a Greek will was: ἔσται μὲν εὖ, ἐὰν δέ τι συμβαίνῃ, τάδε διατίθεμαι (Diog. Laert. v 2 § 51). Cf. Cicero, Phil. I § 10 *si quid mihi humanitus accideret*, and Sheridan's *Rivals*, v 3 (just before a duel), '*But tell me now, Mr Acres*, in case of an accident, *is there any little will or commission I could execute for you?*'

γοῦν] 'for instance,' or, 'at any rate,' one person *was* condemned for such an offence. Tr. 'The father of the priestess at Brauron, though he confessedly had not laid a finger on the deceased, and merely because he encouraged the assailant to hit him again, was outlawed by the court of the Areopagus.' P.]

τῆς Βραυρωνόθεν ἱερείας] Priestess of Artemis, who was specially *ρωνόθεν ἱερείας πατέρ᾿ ὁμολογουμένως οὐχ ἁψάμενον τοῦ τελευτήσαντος, ὅτι τῷ πατάξαντι τύπτειν παρεκελεύσατο, ἐξέβαλ᾿ ἡ βουλὴ ἡ ἐξ ᾿Αρείου πάγου. δικαίως· εἰ γὰρ οἱ παρόντες ἀντὶ τοῦ κωλύειν τοὺς ἢ δι᾿ οἶνον ἢ δι᾿ ὀργὴν ἤ τιν᾿ ἄλλην αἰτίαν ἐξαμαρτάνειν ἐπιχειροῦντας αὐτοὶ παροξυνοῦσιν, οὐδεμί᾿ ἐστὶν ἐλπὶς σωτηρίας τῷ περιπίπτοντι τοῖς ἀσελγαίνουσιν,*

eastern

worshipped at Brauron, the ancient deme near the ~~western~~ coast of Attica, where Orestes and Iphigenia are said to have landed with the statue of the Taurian goddess. Wordsworth's *Athens and Attica*, c. xxviii: 'The daughter of Agamemnon was brought here, as the legend related [*Iph. T.* 1461], from the gloomy regions of the Tauric Chersonesus, and placed as a priestess of Diana's temple in this cheerful valley, where she was said to have lived and died: and where her supposed tomb was shown in after ages.' The principal ceremony in the Brauronia, held every five years, was the rite performed by the young girls of Attica, dressed in saffron-coloured attire, who played as bears in honour of the goddess. Ar. Lys. 645 *κᾆτ᾿ ἔχουσα τὸν κροκωτὸν ἄρκτος ἦ Βραυρωνίοις.* Leake's *Athens* II 72, and Dict. Ant. s. v. *Brauronia.*

πατάξαντι τύπτειν] See *Excursus* (*A*), p. 233.

ἐξέβαλ᾿] not 'expelled' from its own body, but 'banished' from the country. A. Schaefer, *Dem. u. s. Zeit,* III 2, 114 n.

The charge in this case would be what is technically called *βούλευσις*, which is best defined as 'id crimen, quo quis, quacunque sit ratione, ipse tamen a necando manus abstinens hominem morti studeat dare' (Forchhammer, *de Areopago*, p. 30). Harpocration s. v. says that the term is used *ὅταν ἐξ ἐπιβουλῆς τίς τινι κατασκευάσῃ θάνατον, ἐάν τε ἀποθάνῃ ὁ ἐπιβουλευθεὶς ἐάν τε μή.* He adds that, according to Isaeus and Aristotle, such charges came before the court *ἐπὶ Παλλαδίῳ*, *Const. of Athens*, 57 § 3 *τῶν δ᾿ ἀκουσίων καὶ βουλεύσεως...οἱ ἐπὶ Παλλαδίῳ*, but, according to Deinarchus, before the Areopagus,—as in the present instance. The apparent discrepancy as to the tribunal for hearing such cases may be reconciled by the fact that the court at the Palladium was reserved for charges of *φόνος ἀκούσιος* (Aristocr. § 72), whereas that of the Areopagus had cognisance of *φόνος ἐκ προνοίας.* See Sauppe, *Or. Att.* II 235; Meier and Schömann, pp. 384—6, note 532 Lipsius; also the discussion in Zink's *Dissertatio* pp. 3—10, Hermann's *Staatsalt.* ed. 6, pp. 360, 364; *Rechtsalt.* ed. 4, p. 52; Gilbert's *Gk. Const. Antiquities*, ed. 2, p. 427; and Wilamowitz, *Arist. u. Athen*, i 252 n. 138.

᾿Αρείου πάγου] The form *᾿Αρειόπαγος* is apparently only found in late inscriptions. (See note on Isocr. Paneg. § 78 *καλοῖς κἀγαθοῖς.*)

ἀλλ' ἕως ἂν ἀπείπωσιν, ὑβρίζεσθαι ὑπάρξει· ὅπερ[g] ἐμοὶ συνέβη.

1265 Ἃ τοίνυν, ὅθ' ἡ δίαιτ' ἐγίγνετ', ἐποίουν, βούλομαι πρὸς ὑμᾶς εἰπεῖν· καὶ γὰρ ἐκ τούτων τὴν ἀσέλγειαν θεάσεσθ' αὐτῶν. ἐποίησαν μὲν γὰρ ἔξω μέσων νυκτῶν τὴν ὥραν, οὔτε τὰς μαρτυρίας ἀναγιγνώσκειν ἐθέλοντες, οὔτε ἀντίγραφα διδόναι, τῶν τε παρόντων 26

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[g] *propter syllabas breves* ὅπερ νῦν *conicit* Bl. *coll.* 55 § 1.

ἕως ἂν ἀπείπωσιν] 'till they are tired,' sc. οἱ ἀσελγαίνοντες. Cf. § 27, ἐπειδὴ δ' οὖν ποτ' ἀπεῖπον. Reiske (*Index Graec.*) is clearly wrong in his rendering *deliquerint animis sub verberibus:* had the clause referred to the victim, the singular would have been used, to correspond to τῷ περιπίπτοντι.

§§ 26—29. *At the arbitration my opponents, by wasting time and introducing irrelevant matters, protracted the proceedings beyond midnight, to the disgust of all the bystanders, and at last even of themselves. They then, with an evasive object, put in a challenge, offering to surrender certain slaves to be examined by torture as to the assault, and they will make much of this challenge. But had it been a* bona fide *offer, it would have been made not at the last moment, but long before.*

26. ἡ δίαιτα] Civil actions at Athens, before being brought into court, were almost invariably referred to arbitration. The Arbitrators (διαιτηταί) were either public and appointed by lot (κληρωτοί) or private and chosen (αἱρετοί) by the parties to the impending suit. In cases brought before a public arbitrator the parties might appeal to a higher Court; whereas the decision of a private arbitrator was final. See esp. Or. 21 (Mid.) § 94 τὸν τῶν διαιτῶν νόμον, and Aristotle, *Const. of Athens*, 53 §§ 2, 3. The δίαιτα here described was of the former kind. (See further Dict. Antiq. s. v. δίαιτα and *Excursus* to Kennedy's Demosth. *Leptines* &c. pp. 395—403, or Hermann's *Public Antiquities*, § 145, 10 = *Staatsalt.* p. 592—4 Thumser &c. Cf. Wayte on Androt. § 27.)

ἐποίησαν—ὥραν] 'They prolonged the time beyond midnight.' For the plural νύκτες in the sense *nocturna tempora* cf. Plato Phileb. 50 D νῦν οὖν λέγε πότερα ἀφίης με ἢ μέσας ποιήσεις νύκτας, Protag. 310 C and Symp. 217 D πόρρω τῶν νυκτῶν. Ar. Nub. 1 τὸ χρῆμα τῶν νυκτῶν ὅσον.

οὔτε—διδόναι] 'by refusing to read aloud the depositions or to put in copies of the same.' The depositions were indispensable, and the defendants' refusal would obviously protract the proceedings, and lead to lengthy debates between the Arbitrator and the parties to the suit.—τῶν παρόντων sc. μαρτύρων.—καθ' ἕνα = ἕκαστον, 'one by one,' *singillatim.* Or. 9 § 22 καθ' ἕν' οὑτωσὶ περικόπτειν καὶ λωποδυτεῖν τῶν Ἑλλήνων (index

ἡμῖν καθ' ἕν' οὑτωσὶ πρὸς τὸν λίθον[h] *ἄγοντες καὶ ἐξορκοῦντες*[i], *καὶ γράφοντες μαρτυρίας οὐδὲν πρὸς τὸ πρᾶγμα, ἀλλ' ἐξ ἑταίρας εἶναι παιδίον αὐτῷ τοῦτο καὶ*

[h] Dind. Westermann, Bl. '*brevium concursus argumento est aliud quid vitii latere*' Bl. *βωμὸν* Z *et* Bekker st. *cum libris*.

[i] Harp. (Bl.). *ἐξορκίζοντες codices*.

to Buttmann's *Midias* s. v. *κατά*).

οὑτωσί] 'merely,' *sic temere*, Homer's *αὔτως*, or *μὰψ οὕτως* 'just bringing our witnesses up to the altar and putting them on their oath and *nothing more*,' without allowing them to proceed with their depositions.

λίθον] The MSS have *βωμὸν*, which is retained by the Zürich editors, but altered into *λίθον* by others on the authority of Harpocration : *λίθος· Δημοσθένης ἐν τῷ κατὰ* Κόνωνος '*τῶν τε παρόντων καθ' ἕνα ἡμῖν οὑτωσὶ καὶ πρὸς τὸν λίθον ἄγοντες καὶ ἐξορκοῦντες* (*sic*).' *ἐοίκασι δ' Ἀθηναῖοι πρός τινι λίθῳ τοὺς ὅρκους ποιεῖσθαι ὡς Ἀριστοτέλης ἐν τῇ Ἀθηναίων πολιτείᾳ* (7 § 1, 55 § 5) *καὶ Φιλόχορος ἐν τῷ γ' ὑποσημαίνουσιν*. So Hesychius, *λίθος· βῶλος, βωμὸς καὶ βάσις. τὸ ἐν τῇ Ἀθηναίων ἐκκλησίᾳ βῆμα*. Plutarch, Solon 25 *ὤμνυεν ὅρκον … ἕκαστος τῶν θεσμοθετῶν ἐν ἀγορᾷ πρὸς τῷ λίθῳ*. Similarly what Theophrastus (ap. Zenob. proverb. IV 36) calls the *ὕβρεως καὶ ἀναιδείας βωμούς* on the Areopagus, Pausanias describes as *λίθους* (1 28 § 5).

The word *βωμόν* was perhaps originally an interlinear or marginal explanation of *λίθον*, and subsequently thrust the right word from the text.

The *διαιτηταί* might hold their arbitration in any temples, halls or courts available, e.g. in the temple of Hephaestus, as in Isocr. Trapez. § 15 *ἐλθόμενοι δὲ βασανιστὰς ἀπηντήσαμεν εἰς τὸ Ἡφαιστεῖον* (Dem. 33 § 18). So in Or. 36 § 16 we have seen the temple of Athene on the Acropolis mentioned as the scene of an arbitration. In any case an altar for the administration of oaths would be readily at hand, and it is unnecessary to suppose that in the present passage any special public altar is intended. Indeed, *βωμός*, with its synonym *λίθος*, does not always mean an altar, as it may also be used of a small platform or step of stone. Cf. Favorinus (quoted by Hager in *Journ. of Philol.* VI 21) *βωμός· οὐ μόνον ἐφ' ὧν ἔθυον ἀλλὰ καὶ κτίσμα τι ἁπλῶς καὶ ἀνάστημα, ἐφ' οὗ ἔστι βῆναί τι καὶ τεθῆναι. βωμοῖς· βαθμοῖς.*

ἐξορκοῦντες] *ἐξορκίζειν* is used in Aeschin. Fals. Leg. § 85 *ἐξώρκιζον τοὺς συμμάχους*, in the same sense as the more common *ἐξορκοῦν* (for which see Or. 45 § 58).

οὐδὲν πρὸς τὸ πρᾶγμα] sc. *οὔσας*, 'utterly irrelevant.'—*τοῦτο*, sc. Ctesias. They brought all sorts of irrelevant depositions, one of which was that Conon's son was illegitimate [and therefore Conon was not legally responsible for his actions; further that he, Ctesias, had undergone certain ill treatment which justified the outrage he committed on Ariston. P.]

*πεπονθέναι τὰ καὶ τά, ἃ μὰ τοὺς θεοὺς ἄνδρες[j] δικα-
σταὶ οὐδεὶς ὅστις οὐκ ἐπετίμα τῶν παρόντων καὶ
ἐμίσει, τελευτῶντες δὲ καὶ αὐτοὶ[k] ἑαυτούς. ἐπειδὴ* 27
*δ' οὖν ποτ' ἀπεῖπον κἀνεπλήσθησαν ταῦτα ποιοῦν-
τες, προκαλοῦνται ἐπὶ διακρούσει καὶ τῷ μὴ ση-
μανθῆναι τοὺς ἐχίνους, ἐθέλειν ἐκδοῦναι περὶ τῶν*

[j] SAk (Bl.). ὦ ἄνδρες Dind.

[k] +οὗτοι Dind. *om.* Akr (Bl., *qui propter hiatum etiam ἑαυτούς fortasse delendum putat*).

ἃ] The antecedent is not τὰ καὶ τά, but the general sense of the whole of the preceding clauses; 'a course of conduct which, &c.'

τελευτῶντες—ἑαυτούς] sc. ἐπετίμων καὶ ἐμίσουν, 'at last they were indignant at and disgusted with themselves.' The speaker feeling that, by implying that his opponents had had the sense to desist, he has made too much of a concession to them, hurries over his admission, and in the next sentence cuts the matter short by the opening words ἐπειδὴ δ' οὖν, i.e. 'whether this was the real reason or no, at any rate when at last they *did* desist, &c.'

27. προκαλοῦνται——γράψαντες] 'with a view to gaining time, and preventing the cases for the documents from being sealed up, they put in a challenge, tendering certain slaves, whose names they wrote down, to be examined as to the assault.'

The πρόκλησις, or challenge, demanding or offering an inquiry into a special 'issue' before an Arbitrator, very frequently related to the testimony of slaves presumably cognisant of the matter in dispute. In many cases the challenge would take the form of demanding that the opponent's slaves should be given up to torture (to elicit facts which that opponent was alleged to have concealed or misrepresented, Dict. Antiq. i p. 622 a). Harpocr. quoted on Or. 45 § 15. (See Or. 45 § 59—62, and Or. 59 § 124—5.)

In the present instance Conon offers to allow certain slaves to be examined. The plaintiff evidently refuses, and this refusal, he says, is sure to be made a strong point against him. He therefore insists that the πρόκλησις in question was a mere ruse to protract the proceedings before the Arbitrator, and that had it been a *bona fide* offer it would have been made at an earlier date, and with all the proper formalities (§ 27—29).

τοὺς ἐχίνους] All the legal documents (μαρτυρίαι, προκλήσεις &c.) produced during an arbitration or, indeed, any preliminary examination, e.g. an ἀνάκρισις, were enclosed in one or more caskets, or ἐχῖνοι (possibly of a cylindrical shape), which were sealed up and carefully preserved, to be ready in the event of an appeal. See

πληγῶν παῖδας, ὀνόματα γράψαντες. καὶ νῦν οἶμαι[l]
περὶ τοῦτ' ἔσεσθαι τοὺς πολλοὺς τῶν λόγων αὐτοῖς.
ἐγὼ δ' οἶμαι[m] δεῖν πάντας ὑμᾶς ἐκεῖνο σκοπεῖν, ὅτι
οὗτοι, εἰ τοῦ γενέσθαι τὴν βάσανον ἕνεκα[n] προὐκα-
λοῦντο κἀπίστευον τῷ δικαίῳ τούτῳ, οὐκ ἂν ἤδη τῆς
28 διαίτης ἀποφαινομένης, νυκτὸς, οὐδεμιᾶς ὑπολοίπου
σκήψεως οὔσης, προὐκαλοῦντο, ἀλλὰ τοῦτο[o] μὲν πρὸ
τοῦ τὴν δίκην ληχθῆναι, ἡνίκ' ἀσθενῶν ἐγὼ κατεκεί-
μην, καὶ οὐκ εἰδὼς εἰ περιφεύξομαι, πρὸς ἅπαντας
τοὺς εἰσιόντας τοῦτον ἀπέφαινον τὸν πρῶτον πατά-
ξαντα καὶ τὰ πλεῖσθ' ὧν ὑβρίσμην διαπεπραγμένον,
τότ' ἂν εὐθέως ἧκεν ἔχων μάρτυρας πολλοὺς ἐπὶ τὴν
οἰκίαν, τότ' ἂν τοὺς οἰκέτας παρεδίδου καὶ τῶν ἐξ
Ἀρείου πάγου τινὰς παρεκάλει· εἰ γὰρ ἀπέθανον, 1266

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[l] οἴομαι Z *cum* S.

[m] S. οἴομαι Z.

[n] *propter syllabas breves delendum suspicatur* Bl. *coll.* § 18.

[o] Akr (Bl.). πρῶτον Dind.

Or. 45 §§ 17 and 57, Or. 39 § 17, Or. 47 § 16, and cf. Or. 48 (Olymp.) § 48 τὰς συνθήκας πάλιν σημήνασθαι, τὰ δ' ἀντίγραφα ἐμβαλέσθαι εἰς τὸν ἐχῖνον.

τῷ δικαίῳ τούτῳ] 'this plea.'

ἤδη διαίτης ἀποφαινομένης] 'when the award was just being announced.' ἀφοφαίνεσθαι, (1) in *middle* of the διαιτητής Or. 33 (Apat.) § 19 εἷς ὢν (sc. ἄνευ τῶν συνδιαιτητῶν) ἀποφανεῖσθαι ἔφη τὴν δίαιταν, § 20 ἐρήμην κατ' αὐτοῦ ἀπεφήνατο τὴν δίαιταν (cf. § 21 τὴν ἀπόφασιν ἐποιήσατο): (2) in *passive* (as here) of the award itself. Reiske's Index (to which these references are due) is wrong in rendering it as a past tense, *sententia iam pronuntiata.*

28. τὸν πρῶτον πατάξαντα] 'I was pointing out the defendant, to all who came to see me, as the man who struck the first blow.' In a case of assault, the question who struck the first blow would be, of course, important. Or. 47 § 40 βούλομαι τοὺς μάρτυρας παρασχέσθαι οἳ εἶδόν με πρότερον πληγέντα. ἡ δ' αἰκεία τοῦτ' ἔστιν, ὃς ἂν ἄρξῃ χειρῶν ἀδίκων πρότερος. Cf. Or. 23 § 50, Isocr. Or. 20 § 1, Lysias, Or. 4 § 11.

ἔχων μάρτυρας πολλοὺς] To give full and legal attestation to the πρόκλησις. So also in Or. 45 § 61, and elsewhere, a πρόκλησις is attested by a μαρτυρία.

ἐξ Ἀρείου πάγου τινὰς] as *special* witnesses. § 25 εἰ παθεῖν τί μοι συνέβη, φόνου...ἂν ἦν ὑπόδικος. The speaker implies that, had death ensued, Conon would have been liable to a charge

παρ' ἐκείνοις ἂν ἦν ἡ δίκη. εἰ δ' ἄρ' ἠγνόησε 29
ταῦτα, καὶ τοῦτο τὸ δίκαιον ἔχων, ὡς νῦν φήσει, μὴ[p] παρεσκευάσαθ' ὑπὲρ τηλικούτου κινδύνου, ἐπειδή γ' ἀνεστηκὼς ἤδη προσεκαλεσάμην[q] αὐτόν, ἐν τῇ πρώτῃ συνόδῳ πρὸς τῷ διαιτητῇ παραδιδοὺς ἐφαίνετ' ἄν· ὧν οὐδὲν πέπρακται τούτῳ. ὅτι δ' ἀληθῆ λέγω καὶ διακρούσεως ἕνεχ' ἡ πρόκλησις ἦν, λέγε ταύτην τὴν μαρτυρίαν· ἔσται γὰρ ἐκ ταύτης φανερόν.

ΜΑΡΤΥΡΙΑ.

Περὶ μὲν τοίνυν τῆς βασάνου ταῦτα μέμνησθε, 30
τὴν ὥραν ἡνίκα προὐκαλεῖτο, ὧν ἕνεκ' ἐκκρούων ταῦτ'

of φόνος ἐκ προνοίας. On the jurisdiction of the Areopagus in cases of homicide, see especially §§ 65—70 of the speech against Aristocrates, Or. 23.

29. τοῦτο τὸ δίκαιον sc. τὴν πρόκλησιν.

For εἰ...οὐ (Dind.) cf. § 33 ad fin.

προσεκαλεσάμην] 'I cited, summoned him,' served him with a πρόσκλησις, not to be confounded with προὐκαλεσάμην, 'I challenged him, put in a πρόκλησις.' Several MSS actually have προεκαλεσάμην,—a manifest blunder.—'If he did not know this serious responsibility, and if having (as he will now tell you) this plea on his side (i.e. the offer of the slave), he took no precautions against so serious a peril (i.e. the charge of murder), yet at least, when on my recovery I issued a summons against him, in our *first* meeting before the Arbitrator he would have shown himself willing to give up the slaves.'

§§ 30—33. *He thereupon put in false evidence, alleging that certain witnesses, boon companions of his own, deposed that they found the defendant's son and myself fighting in the market-place and that the defendant did not strike me. On my own part, I produce the evidence of strangers who came up by accident, attesting that they saw me struck by the defendant. What motive could these strangers have had for giving 'false evidence' on my side?*

30. ὧν ἕνεκ' ἐκκρούων ταῦτ' ἐποίει] As delay and evasion were the object (ὧν ἕνεκα) of the defendant's conduct (§ 27 ἐπὶ διακρούσει and § 29 διακρούσεως ἕνεκα), we may at first sight suspect (with Westermann) that ἐκκρούων is an interpolation; it may, however, be defended on the ground that it enables the speaker to reiterate emphatically the real motive of his opponent,—'his purpose, his *evasive* purpose, in so doing.' In this view, we may, if we please, punctuate the passage thus: ὧν ἕνεκα, ἐκκρούων,

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[p] Akr (Bl.). *οὐ hiatu admisso* Dind. [q] προεκαλεσάμην Akr.

ἐποίει, τοὺς χρόνους τοὺς πρώτους, ἐν οἷς οὐδαμοῦ
τοῦτο βουληθεὶς τὸ δίκαιον αὑτῷ γενέσθαι φαίνεται,
οὐδὲ προκαλεσάμενος, οὐδ' ἀξιώσας. ἐπειδὴ τοίνυν
ταῦτα πάντ' ἠλέγχεθ', ἅπερ καὶ νῦν[r], πρὸς τῷ διαιτητῇ,
καὶ φανερῶς ἐδείκνυτο πᾶσιν ὧν ἔνοχος τοῖς
31 ἐγκεκλημένοις, ἐμβάλλεται μαρτυρίαν ψευδῆ κἀπιγράφεται
μάρτυρας ἀνθρώπους οὓς οὐδ' ὑμᾶς ἀγνοήσειν
οἴομαι[s], ἐὰν ἀκούσητε, "Διότιμος Διοτίμου
"Ἰκαριεύς, Ἀρχεβιάδης Δημοτέλους Ἁλαιεύς, Χαι-

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[r] *καὶ νῦν* Akr (Bl.). *παρ' ὑμῖν vulgo.*

[s] *οἴομαι* Z *et* Bl. *cum* S. *οἶμαι* Dind.

ταῦτ' ἐποίει. Cf. Fals. Leg. § 144 *ἐκκρούσας εἰς τὴν ὑστεραίαν*, and see Or. 36 § 2; 45 § 4; 40 §§ 44, 45.

ἀξιώσας] sc. *τὸ δίκαιον γενέσθαι*, 'to have claimed to have this plea allowed him,' i.e. the plea founded on his appeal to the evidence of his slaves.

ἠλέγχεθ'] The construction is, *οὗτος ἠλέγχετο ταῦτα πάντα πρὸς τῷ διαιτητῇ ἅπερ* (*accusative*) *νῦν παρ' ὑμῖν ἐλέγχεται.* Thus the nominative to *ἠλέγχετο* is the same as that of *ἐδείκνυτο* in the next clause, and no change of construction is requisite.

πᾶσιν] not masc., but to be taken with *τοῖς ἐγκεκλημένοις.*

31. *ἐμβάλλεται*] Or. 40 § 21 *μαρτυρίαν οὐδεμίαν ἐμβεβλημένος*, ib. §§ 28, 58; cf. 27 §§ 51, 54; 28 § 1; sc. *εἰς τὸν ἐχῖνον* (§ 27), Or. 49 § 65 *ἐμβαλομένου ἐμοῦ ὅρκον εἰς τὸν ἐχῖνον*, and 45 § 6. Trans. 'puts in a false deposition endorsed with names which, I take it, *you* will recognise, when you hear them.'

ἐπιγράφεται] Or. 53 § 14 *κλητῆρα ἐπιγράφεται.* The phrase hardly means 'to give in one's list of witnesses' (L. and S.), but rather 'to have their names inscribed as witnesses.' *ἐπιγράφεται*, it will be noticed, is previous in order of time to *ἐμβάλλεται.* This *ὕστερον πρότερον* enables the speaker to lead up more easily to the mention of the names of the witnesses.

The following *μαρτυρία* is indisputably authentic, and therefore serves as a standard by which others purporting to be original depositions may be tested. See notes on Or. 35 (Lacr.) § 10 and Or. 45 § 8.

Ἰκαριεὺς ... Ἁλαιεὺς ... Πιθεὺς] The names of the corresponding *demes* are (1) *Ἰκαρία*, belonging to the tribe *Aegeis*, and placed by Leake p. 103 'in the southern part of Diacria, not far from the Marathonian district.' (Bursian, however, identifies the *Ἰκάριον ὄρος* with the southern spur of Cithaeron towards Megara, *Geogr.* I 251.)

(2) *Ἁλαί*, a name common to two sea-coast *demes*, the first *Ἁλαὶ Αἰξωνίδες* of the tribe *Cecropis* S.W. of Athens and N.W. of Cape Zoster; the second *Ἁλαὶ Ἀραφηνίδες* of the tribe *Aegeis* on the east coast of Attica near Brauron.

“ρέτιμος[t] Χαριμένους[u] Πιθεὺς[v] μαρτυροῦσιν ἀπιέναι
“ἀπὸ δείπνου μετὰ Κόνωνος, καὶ προσελθεῖν ἐν ἀγορᾷ
“μαχομένοις Ἀρίστωνι καὶ τῷ υἱεῖ τῷ Κόνωνος, καὶ
“μὴ πατάξαι Κόνωνα Ἀρίστωνα,” ὡς ὑμᾶς εὐθέως 32
πιστεύσοντας, τὸ δ' ἀληθὲς οὐ λογιουμένους, ὅτι
πρῶτον μὲν οὐδέποτ' ἂν οὔθ' ὁ Λυσίστρατος οὔθ' ὁ
Πασέας οὔθ' ὁ Νικήρατος οὔθ' ὁ Διόδωρος, οἳ διαρρή-
δην μεμαρτυρήκασιν ὁρᾶν ὑπὸ Κόνωνος τυπτόμενόν
με[w] καὶ θοἰμάτιον ἐκδυόμενον καὶ τἄλλ' ὅσ' ἔπα-
σχον ὑβριζόμενον, ἀγνῶτες ὄντες κἀπὸ ταὐτομάτου
1267 παραγενόμενοι τῷ πράγματι τὰ ψευδῆ μαρτυρεῖν
ἠθέλησαν, εἰ μὴ ταῦθ' ἑώρων πεπονθότα· ἔπειτ' αὐ-

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[t] Bekk. *cum* r. Χαιρήτιος Z *cum* FS; Χαιρίτιος Q.

[u] Bekk. *et* Bl. *coll.* *C.I.A.* iv p. 15 v. 5. Χαιριμένους Z *cum* SAr.

[v] Πιθεὺς S (Dind. ed. Oxon. 1846, *et* Bl. *coll.* *C.I.A.* ii 804, vv. 232, 254. Πιτθεὺς *vulgo et Harp.*).

[w] *ἐμὲ vulgo. με propter syllabas breves* Bl., *qui eandem propter causam mavult τυπτόμενον καὶ θοἰμάτιόν μ' ἐκδυόμενον.*

(3) Πίθος, of the tribe *Cecropis*, placed by Bursian N.E. of Athens, near the southern spurs of Pentelicus (*Geogr.* I 345).—For Ἀρχεβιάδης see note on § 34.

μὴ πατάξαι Κόνωνα Ἀρίστωνα] The sense shows that Conon is the subject, Ariston the object. The order of the words is, in itself, inconclusive.

ὡς—λογιουμένους] The accusative absolute of the participle is here used with *ὡς*, as often with *ὥσπερ* (*quasi vero*): ‘imagining that you will at once give credence, instead of drawing the true inference.’

32. **ἂν**] is constructed with *ἠθέλησαν*, five lines distant.

Νικήρατος] possibly the Niceratos to whom Demosthenes pathetically refers in Or. 21 (Mid.) § 165 Νικήρατος ὁ τοῦ Νικίου ἀγαπητὸς παῖς, ὁ παντάπασιν ἀσθενὴς τῷ σώματι. If so, he would be a great-grandson of the Nicias who commanded in the Sicilian expedition.

θοἰμάτιον ἐκδυόμενον] § 35. Lysias Or. 10 § 40 (with reference to the term λωποδύτης) *εἴ τις ἀπάγοι τινὰ φάσκων θοἰμάτιον ἀποδεδύσθαι ἢ τὸν χιτωνίσκον ἐκδεδύσθαι*, where *θοἰμάτιον* (as here) and *χιτωνίσκον* are the object and not the subject.

τὰ ψευδῆ] Cf. Or. 45 § 2 ‘if they had not actually seen the assault, they would never have consented to give false evidence,’ i.e. evidence which, on that supposition, would have been false, *τὰ ψευδῆ ἂν ὄντα εἰ μὴ ταῦθ' ἑώρων.*

ἔπειτ' αὐτὸς ἐγὼ] refers to *ὅτι πρῶτον μὲν* (*οἱ μάρτυρες*) and still subordinate to the distant *ὅτι.*

τὸς ἔγωγ'[x] οὐδέποτ' ἄν, μὴ παθὼν ὑπὸ τούτου ταῦτα,
ἀφεὶς τοὺς καὶ παρ' αὐτῶν τούτων ὁμολογουμένους
τύπτειν ἐμέ, πρὸς τὸν οὐδ' ἁψάμενον πρῶτον εἰσιέναι
33 προειλόμην. τί γὰρ ἄν; ἀλλ' ὑφ' οὗ γε πρώτου τ'[y]
ἐπλήγην καὶ μάλισθ' ὑβρίσθην, τούτῳ καὶ δικάζομαι
καὶ μισῶ καὶ ἐπεξέρχομαι. καὶ τὰ μὲν παρ' ἐμοῦ
πάνθ' οὕτως ἐστὶν ἀληθῆ καὶ φαίνεται· τούτῳ δὲ μὴ
παρασχομένῳ τούτους μάρτυρας ἦν δήπου λόγος
οὐδείς, ἀλλ' ἡλωκέναι παραχρῆμ' ὑπῆρχε σιωπῇ.
συμπόται δ' ὄντες τούτου καὶ πολλῶν τοιούτων
ἔργων κοινωνοί, εἰκότως τὰ ψευδῆ μεμαρτυρήκασιν.
εἰ δ' ἔσται τὸ πρᾶγμα τοιοῦτον, [z]ἐὰν ἅπαξ ἀπαν-

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[x] ἔγωγε Akr (Bl.). ἐγὼ *hiatu admisso* Dind.

[y] *propter hiatum inseruit* Bl.

[z–z] *'Reiskius, (ὥστ') ἐὰν ἅπαξ—οὐδὲν εἶναι τῆς ἀληθ. Hoc quidem speciose, sed illud non puto necesse.'* Dobree.

πρῶτον] adverb, to be taken with εἰσιέναι, contrasted with ὑφ' οὗ πρώτου ἐπλήγην. 'I prosecute *first* the man who struck me first of all the assailants.' This seems better than to take it with ἁψάμενον, 'him who did not even touch me first.'

εἰσιέναι] εἰς τὸ δικαστήριον. Reiske's index shows that this verb is used in Dem. of either litigant or both, or again of the cause itself, or even with δίκην or γραφὴν as accusative after it. See note on Or. 45 § 7.

33. τί γὰρ ἄν] 'Why should I?' The MSS have the interpolation, ἢ διὰ τί; probably a mere explanation of τί; as equivalent to διὰ τί;

δικάζομαι ... μισῶ ... ἐπεξέρχομαι] 'Sue...abhor...prosecute (visit with vengeance),' 'he it is whom I sue and prosecute as my enemy.' The collocation of μισῶ, expressive of inward feeling, between δικάζομαι and ἐπεξέρχομαι, indicating outward acts, is curious. The latter word is probably immediately suggested by μισῶ, 'not only do I hate him in my heart, but I carry out that hatred to its practical issue by prosecuting him.'

φαίνεται] sc. ἀληθῆ ὄντα, not 'appears,' but 'is proved to be,' 'is clearly true.' μὴ παρασχομένῳ = εἰ μὴ παρέσχετο.

εἰκότως] to be taken with τὰ ψευδῆ μεμαρτυρήκασι, not with κοινωνοί.

εἰ δ' ἔσται κ.τ.λ.] 'If it comes to such a pass, if once certain persons are lost to all sense of shame and openly dare to give false evidence, and (consequently) truth has no advantage, it will be an atrocious state of things.' The simple construction would have been as follows: ἐὰν δὲ ἅπαξ ἀπαναισχυντήσωσί τινες καὶ τὰ ψευδῆ

αισχυντήσωσίν τινες καὶ τὰ ψευδῆ φανερῶς τολμή-
σωσιν μαρτυρεῖν, οὐδὲν δὲ[z] *τῆς ἀληθείας ὄφελος,*
πάνδεινον ἔσται πρᾶγμα. ἀλλὰ νὴ Δί' οὐκ εἰσὶ 34
τοιοῦτοι. ἀλλ' ἴσασιν ὑμῶν, ὡς ἐγὼ νομίζω, πολλοὶ
καὶ τὸν Διότιμον καὶ τὸν Ἀρχεβιάδην καὶ τὸν

φανερῶς τολμήσωσι μαρτυρεῖν, οὐδὲν ἔσται τῆς ἀληθείας ὄφελος· εἰ δὲ ἔσται τὸ πρᾶγμα τοιοῦτον, πάνδεινον ἔσται.

As it is, Demosthenes, by writing *τοιοῦτον* in the early part of the sentence, leads us to expect *ὥστε*, which however never comes; we have, instead, the clause *ἐὰν κ.τ.λ.*, epexegetical of *τοιοῦτον*. Again *οὐδὲν τῆς ἀληθείας ὄφελος* is *in sense* the apodosis of *ἐὰν...τὰ ψευδῆ τολμήσωσι μαρτυρεῖν*, but in construction is made part of the protasis; *πάνδεινον ἔσται πρᾶγμα* being left to do duty as an apodosis, and *πρᾶγμα* necessarily repeated owing to the long interval that separates the apodosis from *τὸ πρᾶγμα* in the protasis.

For *εἰ—οὐδὲν*, see note on Or. 34 § 48.

ἀπαναισχυντήσωσι] used of unblushing effrontery. Cf. *ἀπαυθαδίζεσθαι*. Or. 29 § 20 *τὸ μὲν πρῶτον ἀπηναισχύντει, τοῦ δὲ διαιτητοῦ κελεύοντος μαρτυρεῖν ἢ ἐξομνύειν, ἐμαρτύρησε πάνυ μόλις.*

34. *ἀλλὰ νὴ Δία*] used, as often, like *at enim*, to introduce emphatically an anticipated rejoinder on the part of the opponents. 'Oh but, good heavens! they are not such characters as I make them out.' The phrase may be seen in its fullest form in Or. 20 § 3 *ἀλλὰ νὴ Δι' ἐκεῖνο ἂν ἴσως εἴποι πρὸς ταῦτα.*

§§ 34—37. *Many of you know the characters of the witnesses for the defence,—men who, in the daytime, affect an austerity which is very inconsistent with their conduct when they meet together. They will unscrupulously contradict the evidence on our side; but you will remember that I rely on medical witnesses, whereas my opponents have no independent testimony, and, but for themselves, could get no evidence at all against me. People who break into houses, and assault persons in the streets, would surely have no scruple about putting down false evidence on a paltry piece of paper.*

34. *Ἀρχεβιάδην*] This worthy, who has already been mentioned among the witnesses in §§ 7 and 31, and must not be confounded with the still less known *Ἀρχεβιάδης ὁ Λαμπτρεύς* (Or. 52 § 3), was evidently quite a 'character,' judging from Plutarch's description of him as 'a man of sour countenance who always wore a coarse cloak and had grown a prodigious beard.' Phocion x *init.* *ἦν δέ τις Ἀρχεβιάδης ἐπικαλούμενος Λακωνιστής, πώγωνά τε καθειμένος ὑπερφυῆ μεγέθει καὶ τρίβωνα φορῶν ἀεὶ καὶ σκυθρωπάζων· τοῦτον ἐν βουλῇ θορυβούμενος ὁ Φωκίων ἐπεκαλεῖτο τῷ λόγῳ μάρτυν ἅμα καὶ βοηθόν. ὡς δὲ ἀναστὰς ἐκεῖνος ἃ πρὸς χάριν ἦν τοῖς Ἀθηναίοις συνεβούλευεν, ἁψάμενος αὐτοῦ τῶν γενείων "ὦ Ἀρχεβιάδη" εἶπε "τί οὖν οὐκ ἀπεκείρω;"* It will be observed that Plutarch's anec-

Χαιρέτιμον[a] τὸν ἐπιπόλιον τουτονί, οἳ μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι καὶ λακωνίζειν φασὶ καὶ τρίβωνας ἔχουσιν καὶ ἁπλᾶς ὑποδέδενται, ἐπειδὰν δὲ συλλεγῶσι καὶ μετ' ἀλλήλων γένωνται, κακῶν καὶ αἰσχρῶν οὐδὲν ἐλλείπουσι. καὶ ταῦτα τὰ λαμ-

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[a] Bekk. Χαιρήτιον Z *cum* SFQ. *Cf.* § 31.

dote contains several points of coincidence with the passage before us.

τὸν ἐπιπόλιον] 'the grey-headed man yonder' (present in court). Aristot. de gen. anim. v 5 § 3 ἐπιπολιοῦνται αἱ τρίχες 'the hair grows *grizzled*.' [ἐπιπόλιος is perhaps much the same as the Homeric μεσαιπόλιος, *Il.* XIII 361, whether the sense is 'grey on the top,' or 'half grey,' 'grizzled.' P.]

μεθ' ἡμέραν κ.τ.λ.] Or. 45 § 80.

ἐσκυθρωπάκασι] i.e. 'assume a sour expression and a frowning brow.' Cf. Or. 45 § 68.

λακωνίζειν φασί] i.e. 'pretend to imitate the Laconians.' Plato, Protag. 342 B οἱ μὲν (sc. ἐν ταῖς πόλεσι λακωνίζοντες) ὦτά τε κατάγνυνται (i.e. get their ears battered in boxing) μιμούμενοι αὐτούς, καὶ ἱμάντας περιειλίττονται καὶ φιλογυμναστοῦσι καὶ βραχείας ἀναβολὰς φοροῦσιν, ὡς δὴ τούτοις κρατοῦντας τῶν Ἑλλήνων τοὺς Λακεδαιμονίους. Ar. Aves 1281 ἐλακωνομάνουν ἅπαντες ἄνθρωποι τότε | ἐκόμων, ἐπείνων, ἐρρύπων, ἐσωκράτουν, | ἐσκυταλιοφόρουν (v. Becker's *Charicles* p. 63 with n. 8).

τρίβωνας] Sometimes mentioned as characteristic of Laconians. Plutarch, Nicias 19 τοὺς Σικελιώτας...σκώπτοντας εἰς τὸν τρίβωνα καὶ τὴν κόμην (of Gylippus the Spartan general)...ἐν τῇ βακτηρίᾳ καὶ τῷ τρίβωνι τὸ σύμβολον καὶ τὸ ἀξίωμα τῆς Σπάρτης καθορῶντες... Athenaeus XII 50, p. 535 (quoting the historian Douris) Παυσανίας ὁ τῶν Σπαρτιατῶν βασιλεύς, καταθέμενος τὸν πάτριον τρίβωνα, τὴν Περσικὴν ἐνεδύετο στολήν. [At the same time, the regular dress of the old Athenian dicast or ecclesiast was the τρίβων and the βακτηρία, both often mentioned in Aristoph., e.g. Vesp. 33. P.]

ἁπλᾶς ὑποδέδενται] 'wear single-soled shoes,' sc. ἐμβάδας. Harpocration ἁπλᾶς· Δημ. κατὰ Κόνωνος. Καλλίστρατός φησι τὰ μονόπελμα τῶν ὑποδημάτων οὕτω καλεῖσθαι. Στράττις Λημνομέδᾳ 'ὑποδήματα σαυτῷ πρίασθαι τῶν ἁπλῶν.' Bekker, *Anecd.* 205 ἁπλαῖ· ὑποδήματος εἶδος Λακωνικοῦ κ.τ.λ. They had only one thickness of sole and were apparently more like slippers than shoes. (Becker, *Charicles*, p. 449.) There was also a more elaborate kind of shoes known as Λακωνικαί (Ar. Vesp. 1158). For the general drift of the sentence cf. Isaeus Or. 5 § 11 ὀνειδίζει καὶ ἐγκαλεῖ αὐτῷ ὅτι ἐμβάδας καὶ τριβώνια φορεῖ ὥσπερ ἀδικούμενός τι εἰ ἐμβάδας Κηφισόδοτος φορεῖ, ἀλλ' οὐκ ἀδικῶν ὅτι ἀφελόμενος αὐτὸν τὰ ὄντα πένητα πεποίηκεν.

συλλεγῶσι] sc. νυκτός, contrasted with μεθ' ἡμέραν μέν.

κακῶν καὶ αἰσχρῶν] 'wickedness and indecency.'

πρὰ καὶ νεανικά ἐστιν αὐτῶν· "οὐ γὰρ ἡμεῖς
"μαρτυρήσομεν ἀλλήλοις; οὐ γὰρ ταῦθ' ἑταίρων
"ἐστὶ καὶ φίλων; τί δὲ καὶ δεινόν ἐστιν ὧν παρέ-
"ξεται κατὰ σοῦ; τυπτόμενόν φασί τινες ὁρᾶν[b];
"ἡμεῖς δὲ μηδ' ἧφθαι τὸ παράπαν μαρτυρήσομεν.
1268 "ἐκδεδύσθαι θοἰμάτιον; τοῦτ' ἐκείνους προτέρους[c]
"πεποιηκέναι ἡμεῖς μαρτυρήσομεν. τὸ χεῖλος ἐρ-
"ράφθαι; τὴν κεφαλὴν δέ γ' ἡμεῖς ἢ ἕτερόν τι κατ-
"εαγέναι φήσομεν." ἀλλὰ καὶ μάρτυρας ἰατροὺς 36
παρέχομαι. τοῦτ' οὐκ ἔστιν ὦ ἄνδρες δικασταὶ παρὰ
τούτοις· ὅσα γὰρ μὴ δι' ἑαυτῶν, οὐδενὸς μάρτυρος
καθ' ἡμῶν εὐπορήσουσιν. ἡ δ' ἀπ' αὐτῶν ἑτοιμότης
οὐδ' ἂν εἰπεῖν μὰ τοὺς θεοὺς δυναίμην ὅση καὶ οἵα
πρὸς τὸ ποιεῖν ὁτιοῦν ὑπάρχει. ἵνα δ' εἰδῆθ' οἷα

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[b] *propter syllabas breves φασιν ὁρᾶν τινες mavult* Bl.

[c] *scripsit* Bl. *coll.* 6 § 18. *πρότερον codices.*

35. *τὰ λαμπρὰ καὶ νεανικά*] 'their splendid and spirited pleas.'

οὐ γὰρ κ.τ.λ.] 'What! sha'n't we, &c.,' *quidni igitur?*

ὧν παρέξεται] constr. *τί δὲ καὶ δεινόν ἐστιν ἐκ τούτων ἃ παρέξεται ὁ Ἀρίστων κατὰ σοῦ;* 'is there any serious harm, anything *really* worth fearing?'

ἧφθαι] passive, referring to Ariston, like *τυπτόμενον* just before. '*ἧμμαι* is pf. mid. in Soph. Tr. 1009 (*ἧπται*) and Pl. Phaedr. 260 (*ἧφθαι*)' (we may add Dem. Or. 51 § 5 *ἧφθαι τῆς τριήρους τούτους*); 'pf. passive in Eur. Hel. 107, Ar. Pl. 301 and Thuc. IV 100.' Veitch, *Greek Verbs.*

ἐρράφθαι] § 41 *τὸ χεῖλος διακοπεὶς οὕτως ὥστε ῥαφῆναι.* This was doubtless part of the surgeon's evidence in § 10.

κατεαγέναι] second perfect in passive sense. For other constructions, cf. Plato Gorg. 469 D, *τῆς κεφαλῆς κατεαγέναι* and Lys. Or. 3 § 40 *καταγεὶς τὴν κεφαλὴν ὑπ' αὐτοῦ.*

36. *ὅσα μὴ*] 'except what is (deposed) by means of themselves'; '*nam nisi quod sibi ipsi testabuntur nullum adversus nos testem habebunt.* Plutarch *Timol.* 3 *πρᾶος διαφερόντως ὅσα μὴ μισοτύραννος εἶναι καὶ μισοπόνηρος.*' G. H. Schaefer.

ἡ—ἑτοιμότης] On this circumlocution, see Kühner, *Gk. Gr.* II p. 288.

ὅση καὶ οἵα] *quanta et qualis.* 'In heaven's name, I could not tell you the *extent* and the *character* of the readiness existing on their part to perpetrate anything in the world.' Cf. the common collocation *τοσοῦτος καὶ τοιοῦτος* (e. g. § 37), which may often be conveniently paraphrased as above.

ἵνα εἰδῆτε] The speaker uses the plural in addressing the *δι-*

καὶ διαπραττόμενοι περιέρχονται, λέγ' αὐτοῖς ταυτασὶ τὰς μαρτυρίας, σὺ δ' ἐπίλαβε τὸ ὕδωρ.

ΜΑΡΤΥΡΙΑΙ.

37 Τοίχους τοίνυν διορύττοντες καὶ παίοντες τοὺς ἀπαντῶντας, ἆρ' ἂν ὑμῖν ὀκνῆσαι δοκοῦσιν ἐν γραμματειδίῳ τὰ ψευδῆ μαρτυρεῖν ἀλλήλοις[d] οἱ κεκοινωνηκότες τοσαύτης καὶ τοιαύτης φιλαπεχθημοσύνης

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[d] Bekk. (*cf.* 35). *om.* S *prima manu.*

κασταί, and passes off to the singular λέγε, on turning to the clerk of the court.

ἐπίλαβε τὸ ὕδωρ] Or. 45 § 8; 57 § 21; Lysias Or. 23 §§ 4, 8, 11, 13, 15; Isaeus Or. 2 § 34; 3 § 12. The κλεψύδρα (Becker's *Charicles*, p. 212 n.) was always stopped by the attendant in charge of it (ὁ ἐφ' ὕδωρ) during the recitation of documents. The flow of the water was stopped by placing the hand on the top of the αὐλίσκος, or short neck, of the κλεψύδρα, Aristotle, *Const. of Athens*, col. 33—4 ἐπιλαμβάνει τὸν α[ὐλίσκον, ἐπειδὰν δέῃ.......νόμον ἢ μαρ[τυρίαν...ὑπὸ τοῦ γραμμ]ατέως ἀναγιγν[ώσκεσθαι]. It was only the duration of the speech proper that was reckoned in the allowance of time measured by the κλεψύδρα. Or. 36 ends with the words ἐξέρα τὸ ὕδωρ 'pour out the water,' implying that the orator had found it unnecessary to avail himself of the full allowance of time. The Orators frequently used ὕδωρ in the sense of 'time allotted' for a speech, e.g. ἐν τῷ ἐμῷ ὕδατι· ἐν μικρῷ μέρει τοῦ παντὸς ὕδατος. So Or. 41 fin. πρὸς ὀλίγον ὕδωρ ἀναγκαζόμενος λέγειν, infra § 44; 40 § 38; 44 § 45; 53 § 3; 59 § 20; Deinarchus Or. 1 § 114; 2 § 6. Aeschin. Fals. Leg. § 126 πρὸς ἕνδεκα ἀμφορέας ...κρίνομαι, Dem. Or. 43 § 8. Cf. Pliny, Ep. II 11 § 14 *dixi horis paene quinque; nam duodecim* clepsydris *quas spatiosissimas acceperam sunt additae quattuor.*

When Goethe visited Venice, in Oct. 1786, and went to see a trial in the Ducal Palace, he found a custom in force singularly similar to that implied in the text. Whenever the advocate spoke, the time that elapsed was measured with an hour-glass, which was laid on its side while the depositions were read: 'so lange nämlich der Schreiber liest, so lange läuft die Zeit nicht' etc. (*Italiänische Reise*, p. 68 Düntzer).

37. τοίχους διορύττοντες] The documents just read have deposed to the defendant's witnesses being guilty *inter alia* of housebreaking (τοιχωρυχία). Hermann, *Rechtsalt.* ed. Thalheim p. 46^4 n. 3.

γραμματειδίῳ] 'a mere bit of paper,' 'a paltry document.' Or. 56 § 1 ἐν γραμματειδίῳ δυοῖν χαλκοῖν ἑωνημένῳ καὶ βιβλιδίῳ μικρῷ πάνυ. Isocr. Trapez. § 34. The diminutive is thrown into effective contrast by the subsequent τοσαύτης καὶ τοιαύτης.

φιλαπεχθημοσύνης] 'malignity,

καὶ πονηρίας καὶ ἀναιδείας καὶ ὕβρεως; πάντα γὰρ ταῦτ' ἔμοιγ' ἐν τοῖς ὑπὸ τούτων πραττομένοις ἐνεῖναι δοκεῖ. καίτοι καὶ τούτων ἕτερ' ἐστὶ πεπραγμένα τούτοις δεινότερα, ἀλλ' ἡμεῖς οὐχ οἷοί τε γενοίμεθ' ἂν πάντας ἐξευρεῖν τοὺς ἠδικημένους.

Ὃ τοίνυν πάντων ἀναιδέστατον μέλλειν αὐτὸν 38
ἀκούω ποιεῖν, βέλτιον νομίζω προειπεῖν ὑμῖν εἶναι.
φασὶ γὰρ παραστησάμενον τοὺς παῖδας αὐτὸν κατὰ
τούτων ὀμεῖσθαι, καὶ ἀράς τινας δεινὰς καὶ χαλεπὰς

'quarrelsomeness,' used also by Isocr. antid. § 315 ὠμότητα καὶ μισανθρωπίαν καὶ φιλαπεχθημοσύνην. Dem. Or. 24 § 6 πονηρῷ καὶ φιλαπεχθήμονι καὶ θεοῖς ἐχθρῷ.

καίτοι—τούτοις] a fortuitous hexameter.

§§ 38—41. *I must warn you that Conon will try to impose upon you by swearing by the lives of his own sons and by other strange imprecations. His recklessness about oaths is proved by what I have heard of the profanity of his youthful days; and surely Conon, who would think nothing of perjury, is not to be credited in comparison with myself, who, so far from swearing by the lives of my children, would not swear at all, except under compulsion, and even then, only in a lawful manner. Such an oath I was willing to take for the truth's sake; and, in self-defence against the perjury of my opponent, I challenged him to accept my offer to take the oath, and I now solemnly swear that Conon whom I now prosecute really assaulted and brutally maltreated me.*

38. παραστησάμενον τοὺς παῖδας] The practice of exciting the compassion of the jury by bringing the children into court is often referred to, e.g. Or. 21 § 99 παιδία γὰρ παραστήσεται καὶ κλαήσει καὶ τούτοις αὐτὸν ἐξαιτήσεται, and Hyperides, Euxenipp. ad fin. ἐγὼ μὲν οὖν σοι Εὐξένιππε βεβοήθηκα ὅσα εἶχον. λοιπὸν δ' ἐστὶ δεῖσθαι τῶν δικαστῶν καὶ τοὺς φίλους παρακαλεῖν καὶ τὰ παιδία ἀναβιβάζεσθαι (see especially Aristophanes' ridicule of the custom in Vespae 568—74 and 276—8). But in the present case a still more sensational effect is to be produced by Conon's laying his hands upon his children's heads and praying that the direst curses may come down upon them, if his statements are false.

κατὰ τούτων ὀμεῖσθαι] 'to swear by them,—by their lives.' κατὰ implies the basis on which the oath rests [or, perhaps, hostile action directed against the object sworn by. So in Ar. Equit. 660 κατὰ χιλίων παρήνεσα εὐχὴν ποιήσασθαι χιμάρων, the vow is, as it were, aimed at the lives of the creatures to be sacrificed. P.]. Thuc. v. 47 ὀμνύντων τὸν ὅρκον κατὰ ἱερῶν τελείων, Isaeus Or. 7 § 16 ὀμνύναι καθ' ἱερῶν, Lys. Or. 32 § 13 ἐπιορκήσασα κατὰ τῶν παίδων τῶν ἐμαυτῆς, Dem. 29 § 26 ἡ μήτηρ κατ' ἐμοῦ καὶ τῆς ἀδελφῆς

ἐπαράσεσθαι[e] καὶ τοιαύτας, οἵας ἀκηκοώς γέ τις θαυ-
μάσας ἀπήγγελλεν[f] ἡμῖν. ἔστι δ' ὦ ἄνδρες δικασταὶ
ἀνυπόστατα μὲν τὰ τοιαῦτα τολμήματα· οἱ γὰρ
οἶμαι βέλτιστοι καὶ ἥκιστ' ἂν αὐτοί τι ψευσάμενοι,
μάλισθ' ὑπὸ τῶν τοιούτων ἐξαπατῶνται· οὐ μὴν 1269
ἀλλὰ δεῖ πρὸς τὸν βίον καὶ τὸν τρόπον [ἀπο]βλέ-
39 ποντας[g] πιστεύειν. τὴν δὲ τούτου πρὸς τὰ τοιαῦτ'
ὀλιγωρίαν ἐγὼ πρὸς ὑμᾶς ἐρῶ· πέπυσμαι γὰρ ἐξ
ἀνάγκης. ἀκούω γὰρ ὦ ἄνδρες δικασταὶ Βάκχιόν τέ
τινα, ὃς παρ' ὑμῖν ἀπέθανε, καὶ Ἀριστοκράτην τὸν

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[e] Bekk. *cum H. Wolfio et corr.* S. -σασθαι Z *cum* k.

[f] Z, Bekker st., *et* Bl. *cum* SQ (*coll.* 21 § 36). ἀπήγγειλεν Dind.

[g] *propter syllabas breves* βλέποντας *mavult* Bl. *coll.* 19 § 29, 9 § 35. ἀποβλέποντας Dind. (14 § 15); ἀποβλέποντα Ak.

πίστιν ἠθέλησεν ἐπιθεῖναι, 19 § 292; 21 § 119. (Kühner's *Greek Grammar*, § 433 fin.)

We find a curious parallel in a charge made as follows against Demosthenes himself by Deinarchus, Or. 1 § 71 ποῦ τοῦτ' ἐστὶ δίκαιον...τοὺς μὲν νόμους προλέγειν...παιδοποιεῖσθαι κατὰ τοὺς νόμους...σὲ δὲ τοὺς οὐ γεγενημένους υἱεῖς σαυτῷ προσποιεῖσθαι παρὰ τοὺς νόμους τῶν ἐν ταῖς κρίσεσιν ἕνεκα γιγνομένων ὅρκων;

ἀκηκοὼς—ἀπήγγελλεν] i.e. 'our informant listened to them in amazement.'

ἀνυπόστατα] not exactly 'intolerable' but 'irresistible,' 'impossible to withstand.' The most upright of men and those who are least likely to tell a falsehood themselves (the jury for instance) are most likely to be deceived by such asseverations (ὑπὸ τῶν τοιούτων sc. τολμημάτων).

οἱ οἶμαι βέλτιστοι] For the position of οἶμαι, cf. Fals. Leg. § 80 οἱ μὲν οἶμαι βέλτιστοι, Lept. § 3 ἐν οἶμαι πολλοῖς. Plato Gorg. 483 C ἡ δέ γε οἶμαι φύσις, and Rep. 504 A ἐξ οἶμαι τῆς ἀκροτάτης ἐλευθερίας.

οὐ μὴν ἀλλὰ] = 'not but that.' The phrase is always elliptical: here we may supply οὐ μὴν (ὑπὸ τῶν τοιούτων δεῖ ἐξαπατᾶσθαι) ἀλλὰ...

πρὸς τὸν βίον—πιστεύειν] 'You must look to his life and character, and *then* believe him (if you can).'

39. πρὸς τὰ τοιαῦτα] sc. ὅρκους.

πέπυσμαι—ἀνάγκης] i.e. the defendant has forced the enquiry upon me (cf. § 17 fin. ἀνάγκη...).

παρ' ὑμῖν ἀπέθανε] 'was condemned to death in your court,—by your verdict.'

Ἀριστοκράτην] Probably identical with the person mentioned in Or. 38 § 27 τῶν αἰσχρῶν ἐστὶ

τοὺς ὀφθαλμοὺς διεφθαρμένον καὶ τοιούτους ἑτέρους καὶ Κόνωνα τουτονί, ἑταίρους εἶναι μειράκι᾽ ὄντας καὶ Τριβαλλοὺς ἐπωνυμίαν ἔχειν· τούτους τά θ᾽ Ἑκαταῖα κατεσθίειν[h], καὶ τοὺς ὄρχεις τοὺς ἐκ τῶν

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[h] Bekk. *et* Bl. *cum* Akr *et* Maximo v 589 Walz. κατακαίειν SFQ. *om.* Z *et* Westermann.

...τὰ μὲν ὄντα κατεσθίοντας καὶ παροινοῦντας μετὰ Ἀριστοκράτους καὶ Διογνήτου καὶ τοιούτων ἑτέρων αἰσχρῶς καὶ κακῶς ἀνηλωκέναι.

τὸν τοὺς ὀφθαλ. διεφθαρμένον] 'the man with the bad eyes' (perhaps blind from ophthalmia, *luscus*). For pass. of διαφθείρω used of impaired sight or hearing, and similar physical defects, cf. Aeschin. I § 102 πρεσβύτης διεφθαρμένος τοὺς ὀφθαλμούς, Hdt. I 34 ἦσαν τῷ Κροίσῳ δύο παῖδες, τῶν οὗτερος μὲν διέφθαρτο, ἦν γὰρ δὴ κωφός, and *ib.* 38 διεφθαρμένος τὴν ἀκοήν. Dem. Or. 13 § 13 δεῖ τὰ ὦτα πρῶτον ὑμῶν ἰάσασθαι, διέφθαρται γάρ.

Τριβαλλοὺς] See *Excursus* (*D*) p. 241.

τὰ Ἑκαταῖα] Once every month, at the time of the new moon, dishes of food were set out for Hecate in the evening at the places where three roads met; and the food thus offered was not unfrequently eaten by poor people. Cf. Arist. Plutus, 594—7 παρὰ τῆς Ἑκάτης ἔξεστιν τοῦτο πυθέσθαι | εἴτε τὸ πλουτεῖν εἴτε τὸ πεινῆν βέλτιον. φησὶ γὰρ αὕτη | τοὺς μὲν ἔχοντας καὶ πλουτοῦντας δεῖπνον κατὰ μῆν᾽ ἀποπέμπειν, τοὺς δὲ πένητας τῶν ἀνθρώπων ἁρπάζειν πρὶν καταθεῖναι (with the *Scholia*). [Juvenal v 85 '*exigua feralis cena patella*,' Psalm cvi 28 'they ate the offerings of the dead.' This act, and the eating of the καθάρματα, which had a mystical import, are cited as instances of impious bravado in things sacred, which augured ill for Conon's paying any regard to the obligations of a solemn oath. P.] In Lucian's Dialogues of the Dead (I § 1 = p. 331 R) Diogenes asks Pollux to invite from the upper world Menippus the Cynic, who is sure to bring his wallet well stocked with broken victuals, λέγε αὐτῷ..., ἐμπλησάμενον τὴν πήραν ἥκειν θέρμων τε πολλῶν καὶ εἴ που εὕροι ἐν τῇ τριόδῳ Ἑκάτης δεῖπνον κείμενον ἢ ᾠὸν ἐκ καθαρσίου ἤ τι τοιοῦτον.

Hemsterhuis in an exhaustive note on the above passage (Vol. II p. 397—400 ed. Bipont.) also quotes Plutarch II p. 290 D (the dog) χθονίᾳ δεῖπνον Ἑκάτῃ πεμπόμενος εἰς τριόδους ἀποτροπαίων καὶ καθαρσίων ἐπέχει μοῖραν, Quaest. Rom. p. 280 B, Symp. VII p. 708 F. We may add Charicleides cited by Athenaeus VII 325 δέσποιν᾽ Ἑκάτη, τριοδῖτι, τρίμορφε, τριπρόσωπε, τρίγλαις (mullet) κηλευμένα.

After the word Ἑκαταῖα some of the MSS have κατακαίειν, 'to burn up,' which is not likely to be the right reading; others have κατεσθίειν, which makes good sense and is commonly accepted. Of Reiske's conjectures (κατ᾽ ἀγυιὰς and καταπίνειν) neither can be considered probable. Baiter leaves out the verb, thus making συλλέγοντας

χοίρων[1], *οἷς καθαίρουσ᾽ ὅταν εἰσιέναι μέλλωσι, συλλέγοντας ἑκάστοτε συνδειπνεῖν ἀλλήλοις, καὶ ῥᾷον* 40 *ὀμνύναι κἀπιορκεῖν ἢ ὁτιοῦν. οὐ δὴ Κόνων ὁ τοι-*

govern *Ἑκαταῖα* as well as *ὄρχεις*. Westermann suggests *κλέπτειν* but follows Baiter. *κατακαίειν* may perhaps be accounted for by supposing that *Ἑκαταῖα* or *καταῖα* was erroneously written twice by an early copyist; a subsequent copyist might alter this into the nearest verb he could think of, *κατακαίειν*; this would be seen to be wrong by a still later writer, who would substitute the intelligible word *κατεσθίειν*.

τοὺς ὄρχεις τοὺς ἐκ τῶν χοίρων] The MSS have *τὰς ὄρνεις* (or *ὄρνις*) *τὰς ἐκ τῶν χωρῶν* (or *χορῶν*) *αἷς*. But birds are out of place in an expiatory sacrifice prior to a public assembly, and the use of young pigs for this purpose is distinctly attested by ancient authorities (e.g. Schol. on Ar. Ach. 44). We must therefore accept the certain emendations given in the text, and originally proposed by Hemsterhuis (in his note on Lucian above referred to).

Harpocr. (and Photius) *καθάρσιον· Αἰσχίνης κατὰ Τιμάρχου* (§ 23, speaking of the *ἐκκλησία*, *ἐπειδὰν τὸ καθάρσιον περιενεχθῇ*), *ἔθος ἦν Ἀθήνησι καθαίρειν τὴν ἐκκλησίαν καὶ τὰ θέατρα καὶ ὅλως τὰς τοῦ δήμου συνόδους μικροῖς πάνυ χοιριδίοις ἅπερ ὠνόμαζον καθάρσια· τοῦτο δ᾽ ἐποίουν οἱ λεγόμενοι περιστίαρχοι, οἵπερ ὠνομάσθησαν οὕτως ἤτοι ἀπὸ τοῦ περιστείχειν ἢ ἀπὸ τῆς ἑστίας*. (Ar. Eccl. 128 *ὁ περιστίαρχος περιφέρειν χρὴ τὴν...γαλῆν*, Ach. 44 *ὡς ἂν ἐντὸς ἦτε τοῦ καθάρματος*.)

καθαίρουσ᾽] A plural indefinite, with the subject omitted; cf. the frequent use of *φασί*, *λέγουσι*, *ὀνομάζουσι*.

εἰσιέναι] sc. *εἰς τὴν ἐκκλησίαν*, *etc*. Hence *εἰσιτήρια* (Fals. Leg. § 210 with Shilleto's note).

ἢ ὁτιοῦν] 'They think less of swearing and perjuring themselves than anything else whatsoever,' 'than anything else in the world.' Or. 56 § 15 *οὐδέν γε μᾶλλον ἢ ὁτιοῦν*.

40. *οὐ δή...οὐδὲ πολλοῦ δεῖ*] Here, as usual in this phrase, *οὐδὲ* reiterates the preceding negation (*οὐ δὴ*), but does not negative *πολλοῦ δεῖ* although closely pronounced with it. (Cf. Fals. Leg. § 33 *οὐ γάρ...τὰ πράγματ᾽ ἐστὶ φαῦλα...οὐδὲ πολλοῦ δεῖ*, with Shilleto's note.) We have an apparent exception to this rule in Or. 20 Lept. § 20 *φανήσεται γὰρ οὐδὲ πολλοῦ δεῖ τῆς γενησομένης ἄξιον αἰσχύνης*, where there is no preceding negative expressed. The exception may however be explained on the supposition that *φανήσεται* is ironical and therefore implies a negative: *οὐ γὰρ φανήσεται τῆς γενησομένης ἄξιον αἰσχύνης, οὐδὲ πολλοῦ δεῖ*.

οὐ δὴ κ.τ.λ.' A very elegant and idiomatic passage: 'Conon then, as a character such as I have described, is not to be trusted on oath; far from it, indeed. No! the man who would not take even an oath that he intends to observe, and would not for a moment think of doing so on the lives

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[1] *τὰς ὄρνεις* (*ὄρνις* kB) *τὰς ἐκ τῶν χωρῶν* (*χορῶν* Akr) *αἷς codices*.

οὗτος πιστός ἐστιν ὀμνύων· οὐδὲ πολλοῦ δεῖ· ἀλλ' ὁ μηδ' εὔορκον μηδὲν ἂν[j] ὀμόσας[k], κατὰ δὲ δὴ παίδων ὧν μὴ νομίζετε[l] μηδ' ἂν[m] μελλήσας, ἀλλὰ κἂν[n]

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[j] + ῥᾳδίως *propter syllabas breves addere vult* Bl.

[k] ἂν ὀμόσας μηδὲν r.

[l] S. νομίζεται Akr. ὀμόσας, κατὰ δὲ δὴ παίδων ὧν μὴ νομίζετε Bekker *et* Bl. *cum libris.—'Lege* ὧν μὴ νομίζεται μηδὲν μηδ' ἂν μελλήσας, *qui ne in animum quidem induxerit ut* novo *et* inusitato *more per liberorum capita iuret...Imo transpone,* ὀμόσας ὧν μὴ νομίζεται, κατὰ δὲ δὴ τῶν παίδων μηδ' ἂν μελλήσας.' Dobree. ὀμ. ὧν μὴ νομίζετε, κατὰ δὲ δὴ παίδων μηδ' ἂν μελλήσας Sauppe. *Locum corruptum putat* Bl., *cui Dobraei coniectura idcirco displicet, quod* κατὰ δὲ δὴ παίδων *tamquam maius aliquid post* ὧν μὴ νομίζετε *infertur. Idem* παίδων *spurium arbitratus conicit* καθ' ὧν δὲ δὴ μὴ νομίζετε μηδ' ἂν μελλήσας.

[m] μηδὲν SFQ.

[n] καὶ Akr.

of his children,...but would rather suffer anything than that,—and who, even when constrained, will take none but a customary oath,—I say, such a man is more to be trusted than one who swears by his sons and offers to undergo the fiery ordeal.' P.]

ὁ μηδ'—μελλήσας] The MSS have ὧν μὴ νομίζετε (or νομίζεται) *after* κατὰ δὲ δὴ παίδων. There are two objections to this: (i) the plaintiff describes himself as one who is 'reluctant to swear even to the truth' (μηδ' εὔορκον μηδὲν ἂν ὀμόσας), whereas in § 41 he publicly swears to having been assaulted by the defendant: (ii) an oath by the lives of one's children is described as 'contrary to usage' (ὧν μὴ νομίζετε), whereas this very oath is elsewhere attributed to the mother of Demosthenes. Or. 29 §§ 26, 33, 54, 56 ἡ μήτηρ κατ' ἐμοῦ καὶ τῆς ἀδελφῆς...πίστιν ἠθέλησεν ἐπιθεῖναι...ἣν μηδεὶς ὑμῶν νομιζέτω καθ' ἡμῶν ποτ' ἂν ὀμνύναι ταῦτ' ἂν ἐθέλειν, εἰ μὴ σαφῶς ᾔδει τὰ εὔορκα ὀμουμένη. Or. 19 § 292.

It was with a view to removing these objections that Dobree placed ὧν μὴ νομίζεται after μηδὲν ἂν ὀμόσας.

If an easier alteration is preferred, we may retain the order as it stands in the MSS, simply inserting μηδὲν after ὧν μὴ νομίζετε, and accounting for its loss by its similarity to the subsequent μηδ' ἂν. The MSS vary between μηδ' ἂν and μηδὲν, and this proposal combines the two alternative readings. The sentence would then run thus: ὁ μηδ' εὔορκον μηδὲν ἂν ὀμόσας, κατὰ δὲ δὴ παίδων, ὧν μὴ νομίζετε μηδὲν μηδ' ἂν μελλήσας. Thus ὧν μὴ νομίζετε depends on μηδὲν and does not refer to παίδων, the sense of the second clause being that Ariston would never dream of taking any *such* oath, by his children's lives, as would be contrary to general usage. Below, he describes himself as ὀμνύων ὡς νόμιμον.

μηδ' εὔορκον] Isocr. ad Dem. § 23 ἕνεκα δὲ χρημάτων μηδένα ὁτιοῦν παθὼν πρότερον, εἰ δ᾽ ἄρ᾽[o] ἀναγκαῖον, ὀμνύων ὡς νόμιμον, [p]κατ᾽ ἐξωλείας αὑτοῦ καὶ γένους καὶ οἰκίας[p], ἀξιοπιστότερος τοῦ κατὰ τῶν παίδων ὀμνύντος[q] καὶ διὰ τοῦ πυρός. ἐγὼ τοίνυν ὁ δικαιότερόν σου πιστευθεὶς ἂν κατὰ πάντ᾽, ὦ Κόνων, ἠθέλησ᾽

[o] δ᾽ ἄρ᾽ Bekker *et* Bl. *cum* Akr, *coll.* 18 § 278. δ᾽ Dind.
[p–p] *addit* Maximus (v 589 Walz), *quae recepit* Bl. *coll. Antiph.* v 11.
[q] ὀμνύντος Bekk. *et* Bl. *cum* Akr. ὀμνύοντος Dind.

θεῶν ὀμόσῃς, μηδ᾽ ἂν εὐορκεῖν μέλλῃς.

κἂν ὁτιοῦν παθὼν πρότερον] ‘Would submit to anything sooner than that,’ i.e. rather than swear by an oath contrary to the country’s use, or by the lives of his children.

The whole sentence is intended to be descriptive of the *character* of a man who has a solemn regard for the obligations of an oath; hence the use of μή. A person of such a character, says the plaintiff, is more trustworthy than one who is ready to take any oath you please. The characters contrasted are of course those of the plaintiff and defendant respectively, but this is only *implied* until we reach the next sentence, ἐγὼ...ὁ δικαιότερόν σου πιστευθεὶς ἂν, when the contrast is brought home to the case at issue.

καὶ διὰ τοῦ πυρός] It is doubtful whether we can explain this of any ordeal by fire like that referred to in Soph. Antig. 264 (ἦμεν δ᾽ ἕτοιμοι καὶ μύδρους αἴρειν χεροῖν, καὶ πῦρ διέρπειν καὶ θεοὺς ὁρκωμοτεῖν), and possibly implied in Ar. Lysistr. 133 ἀλλ᾽ ἀλλ᾽ ὅ τι βούλει, κἂν με χρὴ, διὰ τοῦ πυρὸς ἐθέλω βαδίζειν, which however may be only a strong metaphor expressive of readiness to endure any amount of torture. Sometimes διὰ πυρὸς is used of ‘braving the extremest perils,’ ‘going through fire and water,’ as in Xen. Symp. IV 16 ἔγωγ᾽ οὖν μετὰ Κλεινίου κἂν διὰ πυρὸς ἰοίην, and Oec. XXI 7 ἀκολουθητέον...καὶ διὰ πυρὸς καὶ διὰ παντὸς κινδύνου (L and S s. v. πῦρ).

In the present passage διὰ τοῦ πυρός possibly contains an allusion to some strange form of self-devotion, one of the ἀραὶ δειναὶ καὶ χαλεπαὶ obscurely hinted at in § 38. G. H. Schaefer simply says: ‘vertam, *vel dum ara ardet*,’ i.e. ‘one who swears by his children even while the flame is burning on the altar,’ and C. R. Kennedy renders the words: ‘and before the burning altar.’ (Cf. Or. 43 § 14 λαβόντες τὴν ψῆφον καομένων τῶν ἱερείων.)

This is hardly satisfactory, and it is not improbable that the text is corrupt and that we should read καὶ διὰ τοῦ πυρὸς ἰόντος, where the participle would easily have been lost by *homoeoteleuton* with ὀμνύοντος.

πιστευθεὶς ἂν] See on § 1 *ad fin.* For the passive, formed just as if the active were directly transitive, and took the accusative, cf. § 5 παροινουμένους and § 2 παρανενομῆσθαι.

ὀμόσαι ταυτί, οὐχ ὑπὲρ τοῦ μὴ δοῦναι δίκην, ὧν ἠδίκηκα, κἂν ὁτιοῦν[r] ποιῶν, ὥσπερ σύ, ἀλλ' ὑπὲρ τῆς ἀληθείας καὶ ὑπὲρ τοῦ μὴ προσυβρισθῆναι, ὡς οὐ κατεπιορκησόμενος[s] τὸ πρᾶγμα. λέγε τὴν πρόκλησιν.

ΠΡΟΚΛΗΣΙΣ.

Ταῦτ' ἐγὼ καὶ τότ' ἠθέλησα ὀμόσαι, καὶ νῦν 41
ὀμνύω τοὺς θεοὺς καὶ τὰς θεὰς ἅπαντας καὶ ἁπάσας[t]
ὑμῶν εἵνεκ' ὦ ἄνδρες δικασταὶ καὶ τῶν περιεστηκό-
των, ἦ μὴν παθὼν ὑπὸ Κόνωνος ταῦθ' ὧν δικάζομαι,
1270 καὶ λαβὼν πληγάς, καὶ τὸ χεῖλος διακοπεὶς οὕτως
ὥστε καὶ ῥαφῆναι, καὶ ὑβρισθεὶς τὴν δίκην διώκειν.
καὶ εἰ μὲν εὐορκῶ, πολλά μοι γένοιτο κἀγαθὰ[u] καὶ

ἠθέλησ' ὀμόσαι ταυτί] The general drift of this oath must have been given by the *πρόκλησις* which was read to the jury; it is also indicated in the asseverations of § 41.

It is clear that this Challenge was refused by the defendant. The plaintiff would therefore be able to point to this refusal as a fact in his own favour, just as the defendant would in the case of the *πρόκλησις* tendered by him and rejected by the plaintiff (§ 27).—In the next line *καὶ* emphasizes *ὁτιοῦν*.

κατεπιορκησόμενος] the future middle which, if retained, must be taken as passive in sense, 'inasmuch as I am determined not to lose the case by your perjury.' [Or, 'as one who had no idea of having the case decided against him by perjury.' P.] For the use of *κατα-* cf. *καταρρᾳθυμεῖν* ('to lose by negligence') in Or. 4 § 7 *τὰ κατερρᾳθυμημένα πάλιν ἀναλήψεσθε*, and *κατεπᾴδειν*, 'to subdue by charming' (Pl. Gorg. 483 E).

41. *τῶν περιεστηκοτων*] Aeschin. Ctesiph. § 56 *ἀποκρίνομαι ἐναντίον σοι τῶν δικαστῶν καὶ τῶν ἄλλων πολιτῶν ὅσοι δὴ ἔξωθεν περιεστᾶσι*, and Dem. de Cor. § 196.

What applies above to private orations of great public importance, applies *mutatis mutandis* to the present speech, which was probably listened to by a considerable body of citizens, besides the forty *δικασταὶ* before whom this case was apparently tried (see *Introduction* p. lxi).

καὶ εἰ μὲν εὐορκῶ—ἔσεσθαι]

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[r] *κἂν ὁτιοῦν scripsit* Bl. *καὶ ὁτιοῦν vulgo.* *ὁτιοῦν* Akr.

[s] Z, Bekker st., *et* Bl. *cum libris.* *κατεπιορκηθησόμενος* Dobree, Dind.

[t] *πάσας* Z *cum* S.

[u] *γένοιτο καὶ ἀγαθά Aristidis* (p. 377 W) *codex Par.* 1741; *γένοιτο ἀγαθά Aristidis lectio vulgata, et* Akr; *ἀγαθὰ γένοιτο et hiatu et syllabis brevibus admissis* Dind. (57 § 57, 55 § 24).

μηδέποτ' αὖθις τοιοῦτο μηδὲν πάθοιμι, εἰ δ' ἐπιορκῶ,
ἐξώλης ἀπολοίμην αὐτὸς[v] καὶ εἴ τί μοι ἔστιν ἢ μέλ-
λει[w] ἔσεσθαι. ἀλλ' οὐκ ἐπιορκῶ, οὐδ' ἂν Κόνων
42 διαρραγῇ. ἄξιον[x] τοίνυν ὑμᾶς ὦ ἄνδρες δικασταὶ
πάνθ' ὅσ' ἐστὶ δίκαι' ἐπιδείξαντος ἐμοῦ καὶ πίστιν
προσθέντος ὑμῖν, ὥσπερ ἂν αὐτὸς ἕκαστος παθὼν τὸν
πεποιηκότ' ἐμίσει, οὕτως ὑπὲρ ἐμοῦ πρὸς Κόνωνα
τουτονὶ τὴν ὀργὴν ἔχειν, καὶ μὴ νομίζειν ἴδιον τῶν
τοιούτων μηδέν, ὃ κἂν ἄλλῳ τυχὸν συμβαίη, ἀλλ' ἐφ'

[v] Akr (Bl. *coll.* § 40, 9 § 42, 19 § 71 *etc.*). +γε SFQ. +τε Aristides (Dind.).

[w] *propter hiatum* ποτ' *addere vult* Bl.

[x] Akr (Bl.). ἀξιῶ *vulgo*.

Quoted by Aristeides (ii 487 *Rhet. Graeci*, Spengel), together with the famous adjurations of the speech *de Corona* (§§ 1 and 141), to exemplify ἀξιοπιστία brought about by ὅρκοι and ἀρά.

ἐξώλης] Or. 49 § 66; Fals. Leg. § 172 ἐξώλης ἀπολοίμην καὶ προώλης εἰ..., and in § 70 (after quoting the solemn form of imprecation used before the meetings of the βουλή and ἐκκλησία) the orator adds: εὔχεσθ' ἐξώλη ποιεῖν αὐτὸν καὶ γένος καὶ οἰκίαν.

Ariston is here taking an oath almost as strong as that which he finds fault with in Conon; but he would probably plead that he was only swearing 'in the customary manner,' ὡς νόμιμον (§ 40).

διαρραγῇ] sc. λέγων ὡς ἐπιορκῶ, 'not even if Conon burst with saying that I forswear myself'—or (as we should put it)—'say so *till he bursts.*' De Cor. § 21 ὁ σὸς κοινωνὸς, οὐχ ὁ ἐμὸς, οὐδ' ἂν σὺ διαρραγῇς ψευδόμενος.

§§ 42—43. *This is no private interest of myself alone; Conon will appeal to the compassion of the jury, though the victim of such an outrage deserves their pity, rather than its perpetrators. I therefore claim from the jury the same feeling of resentment against Conon, as each one of them would have felt in his own case.*

42. πάνθ'—δίκαια] perhaps = πάντα δίκαια ὅσα ἔστι (not πάντα ὅσα δίκαιά ἐστι). If so, we should read ἔστι for ἐστί.

πίστιν] = ὅρκον, Or. 49 § 42 πίστιν ἠθέλησα ἐπιθεῖναι.—πίστιν προσθέντος § 41, alluding to νῦν ὀμνύω κ.τ.λ.—παθὼν = εἰ ἔπαθεν.

τὴν ὀργὴν ἔχειν] Or. 21 (Mid.) § 70 εἰ τοίνυν τις ὑμῶν ἄλλως πως ἔχει τὴν ὀργὴν ἐπὶ Μειδίαν ἢ ὡς δέον αὐτὸν τεθνάναι, οὐκ ὀρθῶς ἔχει. P.]

ὃ—συμβαίη] = ὃ καὶ ἄλλῳ (τυχὸν) συμβαίη ἄν, 'which might, perchance, happen to another.' For acc. abs. τυχὸν (like παρασχόν, ἐξόν, μετόν, Kühner § 487, 3) cf. Isocr. Paneg. § 171 τυχὸν ἄν τι συνεπέραναν and Dem. de Cor.

ὅτου ποτ' ἂν συμβῇ, βοηθεῖν καὶ τὰ δίκαι' ἀποδιδό-
ναι, καὶ μισεῖν τοὺς πρὸ μὲν τῶν ἁμαρτημάτων
θρασεῖς καὶ προπετεῖς, ἐν δὲ τῷ δίκην ὑπέχειν ἀν-
αισχύντους καὶ πονηρούς, καὶ μήτε δόξης μήτ' ἔθους
μήτ' ἄλλου μηδενὸς φροντίζοντας πρὸς τὸ μὴ δοῦναι
δίκην. ἀλλὰ δεήσεται Κόνων καὶ κλαήσει[y]· σκο- 43
πεῖτε δὴ πότερός[z] ἐστιν ἐλεινότερος[a], ὁ πεπονθὼς
οἷ' ἐγὼ πέπονθ' ὑπὸ τούτου, εἰ προσυβρισθεὶς ἄπειμι
καὶ δίκης μὴ τυχών, ἢ Κόνων, εἰ δώσει δίκην; πότερον
δ' ὑμῶν ἑκάστῳ συμφέρει, ἐξεῖναι τύπτειν καὶ ὑβρί-
ζειν ἢ μή; ἐγὼ μὲν οἶμαι[b] μή. οὐκοῦν, ἂν μὲν ἀφιῆτε,
ἔσονται πολλοί, ἐὰν δὲ κολάζητ', ἐλάττους.

Πόλλ' ἂν εἰπεῖν ἔχοιμ' ὦ ἄνδρες δικασταί, καὶ 44
ὡς ἡμεῖς χρήσιμοι, καὶ αὐτοὶ[c] καὶ ὁ πατὴρ, ἕως ἔζη,

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[y] κλαιήσει Z *cum* S.

[z] *propter syllabas breves* ποτ' *addere vult* Bl. *coll.* 39 §§ 14, 16, 21. [a] *scripsit* Bl. ἐλεειν. *vulgo.*

[b] οἴομαι Z *cum* S. [c] καὶ αὐτοὶ Akr. *om.* Z *cum* SFQ.

§ 221 ἐπεπείσμην δ' ὑπὲρ ἐμαυτοῦ, τυχὸν μὲν ἀναισθητῶν, ὅμως δ' ἐπεπείσμην.

τὰ δίκαι' ἀποδιδόναι] 'To grant him the claims which are his due'; ἀπο-, as in ἀπολαμβάνειν, 'to receive one's due,' 'to accept full payment.' See note on Or. 53 §.10.

πρὸ] Not 'previous to,' but 'in the presence of,' 'at.' [Cf. however Or. 21 (Mid.) § 30 νόμους ἔθεσθε πρὸ τῶν ἀδικημάτων ἐπ' ἀδήλοις τοῖς ἀδικήσουσιν. P.]

μήτ' ἔθους...φροντίζοντας] Cf. § 40 ὧν μὴ νομίζετε.

43. δεήσεται...καὶ κλαήσει] Or. 30 § 32 ἀναβὰς ἐπὶ τὸ δικαστήριον ἐδεῖτο, ἱκετεύων ὑπὲρ αὑτοῦ καὶ ἀντιβολῶν καὶ δάκρυσι κλαίων. Cf. Or. 53 § 29.—προσυβρισθεὶς is further explained by δίκης μὴ τυχών. See note on § 15, ὑβρισθῆναι.

ἢ μή] sc. ἐξεῖναι, not συμφέρει. The latter would require οὔ.

ἂν μὲν ἀφιῆτε κ.τ.λ.] Isocr. κατὰ Λοχίτου (αἰκείας), § 18 τοὺς ἄλλους πολίτας κοσμιωτέρους ποιήσετε καὶ τὸν βίον τὸν ὑμέτερον αὐτῶν ἀσφαλέστερον καταστήσετε.

§ 44. *I might say much of the public services of my family, and show that my opponents have done you no such service. But time would not suffice, nor is this the point at issue. For even supposing we were ever so inferior to our opponents, that is no reason why we should be beaten and insulted.*

44. χρήσιμοι] χρήσιμος is almost invariably used with εἴς τι, πρός τι, ἐπί τι or the simple dat., but is here placed absolutely.

καὶ τριηραρχοῦντες καὶ στρατευόμενοι καὶ τὸ προσταττόμενον ποιοῦντες, καὶ ὡς οὐδὲν οὔθ' οὗτος οὔτε τῶν τούτου οὐδείς· ἀλλ' οὔτε τὸ ὕδωρ ἱκανόν, οὔτε νῦν περὶ τούτων ὁ λόγος ἐστίν[d]. *εἰ γὰρ δὴ ὁμολογουμένως ἔτι τούτων καὶ ἀχρηστοτέροις καὶ πονηροτέροις ἡμῖν εἶναι συνέβαινεν, οὐ τυπτητέοι, οὐδὲ ὑβριστέοι δήπουθεν*[e] *ἐσμέν.*

Οὐκ οἶδ' ὅ τι δεῖ πλείω λέγειν· οἶμαι[f] *γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων.*

[d] *propter syllabas breves* (ὁ λόγος) *aut* ἔσθ' ὁ λόγος *aut* ὁ λόγος (*deleto* ἐστίν) *mavult* Bl.

[e] Ak (Bl.). δήπου *hiatu admisso vulgo.*

[f] οἴομαι Z *cum* S.

τριηραρχοῦντες] See Or. 36 § 41.

ὡς οὐδὲν] = *ὡς κατ' οὐδὲν γέγονε χρήσιμος* (understood from *χρήσιμοι* above).—On *τὸ ὕδωρ*, see § 36.

τούτων...ἀχρηστοτέροις] More unserviceable, more useless, to the state than our opponents. For the dat. *συνέβαινεν ἡμῖν εἶναι ἀχρηστοτέροις* cf. § 16 *αὐτοληκύθοις συγχωροῦμεν εἶναι τοῖς υἱέσι.*

ἄχρηστος is here contrasted with *χρήσιμος* and, as often in the Orators, is used in the same sense as *ἀχρεῖος* in earlier Greek writers.

τυπτητέοι] formed like *τυπτήσω* as if from **τυπτέω*, cf. *τετυπτῆσθαι* in *Argument* l. 2. See Excursus (A), *infra.*

οὐκ οἶδ'—εἰρημένων] The very same sentence (with the addition of the phrase *ἐξέρα τὸ ὕδωρ*) occurs at the close of Or. 36. On *ὅ τι δεῖ*, see note on 36 § 62.

A longer speech might appropriately have closed with a recapitulation and a formal peroration; but in the present instance neither is necessary. Arist. Rhet. III 13 *ὁ ἐπίλογός ἐστιν οὐδὲ δικανικοῦ* (λόγου) *παντός, οἷον ἐὰν μικρὸς ὁ λόγος καὶ τὸ πρᾶγμα εὐμνημόνευτον.*

EXCURSUS (A).

On the defective verb τύπτω (§§ 4, 25, 32, 35, &c.).

The verb τύπτω forms a familiar paradigm in almost all the elementary Greek Grammars in ordinary use, where, as every schoolboy knows, it is conjugated at full length with its three perfect tenses, its five futures, and its six aorists; and it must be admitted that, for the purposes of a paradigm, the verb in question is in several respects admirably adapted. Had the selection fallen on a verb ending in -ω with a *vowel* for the last letter of its stem, e.g. λύ-ω, or τιμά-ω, our model verb would have had one aorist only in each voice, ἔλυσα, ἐλυσάμην, ἐλύθην; ἐτίμησα, ἐτιμησάμην, ἐτιμήθην. Had a *verbum purum* ending in -μι been taken, e.g. φη-μί, δίδω-μι, ἵστη-μι, the beginner would have had to face a very complex conjugation at the very outset of his task. τύπτω is unencumbered with the special irregularities of verbs ending in -μι, and has the advantage of two *theoretically possible* aorists in each voice; indeed, as Veitch has pointed out, it is 'one of the very few verbs that have the second aorist active and passive in actual use' (though the former is very rare, while in *Attic prose* neither is ever found). Again, as compared with some other *verba impura*, with a *consonant* for their characteristic letter, it has this advantage; that the stem-vowel remains unchanged throughout, and is thus identical in (for instance) the aorist and present participle alike (τυπ-είς and τύπ-τ-ων), whereas in λείπω, φαίνω, τήκω as compared with ἔ-λιπ-ον, ἐ-φάν-ην, ἐ-τάκ-ην, the stem-vowels which appear in the aorist have suffered modification in the present; also the consonantal relations between the different tenses are simpler than in the case of some other verbs; thus, while β in ἐ-βλάβ-ην becomes π in βλάπ-τ-ω, no such alteration is necessary in passing from the -τυπ- of the second aorist to the strengthened form τυπτ- of the present.

The verb is not without an interest of its own in the history of grammar; and though it may be rash to conjecture whether it owed its first selection to the grim humour of some *plagosus Orbilius* of old times, intent on bringing each tense's meaning home to his pupils' memories by the help of his ferule, it may be interesting to note that this particular paradigm is found in the early Greek Grammars which appeared in Italy at the revival of learning, as for instance in the *Erotemata* of Chrysoloras, a distinguished scholar, who (in the dedication of a copy in my possession, printed at Venice at the Aldine press in 1517) is described as *Manuel Chrysoloras, qui primus Iuniorum reportauit in Italia literas græcas**. The paradigm may also be traced still further back to the Canons of Theodosius, an Alexandrine grammarian of the age of Constantine the Great, who expounds all the parts, regardless of usage, and at considerable length (viz. on pp. 1008—1044 of Θεοδοσίου γραμματικοῦ εἰσαγωγικοὶ κανόνες περὶ κλίσεως ῥημάτων in Bekker's *Anecdota Graeca*, vol. III). The Grammar of Theodosius is in its turn founded on that of a more celebrated Greek scholar, Dionysius the Thracian, who taught at Rome in B.C. 80. The τέχνη γραμματικὴ of the latter is a short work, occupying only pp. 629—643 in Bekker's *Anecdota Graeca*, vol. II; it was a standard text-book for many centuries and is the original basis of all subsequent grammars. I quote a few words from chap. XV, which bear on our present subject: διαθέσεις δέ εἰσι τρεῖς, ἐνέργεια, πάθος, μεσότης· ἐνέργεια μὲν οἷον τύπτω, πάθος δὲ οἷον τύπτομαι, μεσότης δὲ ἡ ποτὲ μὲν ἐνέργειαν, ποτὲ δὲ πάθος παριστῶσα, οἷον πέποιθα, διέφθορα, ἐποιησάμην, ἐγραψάμην*. Shortly after, he proceeds: ἀριθμοὶ δὲ τρεῖς, ἑνικός, δυϊκὸς καὶ πληθυντικός· ἑνικὸς μὲν οἷον τύπτω, δυϊκὸς δὲ οἷον τύπτετον, πληθυντικὸς δὲ οἷον τύπτομεν· πρόσωπα δὲ τρία, πρῶτον, δεύτερον, τρίτον· πρῶτον μὲν οἷον τύπτω, δεύτερον οἷον τύπτεις, τρίτον οἷον τύπτει.

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* On Chrysoloras, see Hody, *de viris illustribus* cap. ii, and Voigt's *Humanismus* I^2 225, 234; and cf. Hallam's *Literature of Europe* I 99 ed. 1854, where the *Erotemata* is described as 'the first, and long the only, channel to a knowledge of Greek, save oral instruction,' and Mullinger's *History of the University of Cambridge*, I pp. 391—396, where it is called 'the Greek Grammar of the first century of the Renaissance.' 'It served Reuchlin for a model at Orleans, was used by Linacre at Oxford and Erasmus at Cambridge, and long continued to hold its ground against formidable rivals,' p. 395. The date of his arrival in Italy was about 1396.—The Aldine edition above referred to is of course a reprint. It was first printed in 1484. Hallam I p. 180 ascribes to about the year 1480 a small quarto tract of great rarity, entitled *coniugationes verborum Graecae, Daventria noviter extremo labore collectae et impressae*, containing nothing but τύπτω in all its voices and tenses, with Latin explanations.

But, however well this verb may be adapted as a typical form for the beginner, and however interesting it may be as a tradition of the earlier grammarians, it cannot be too clearly understood that very few of the tenses are really used by the best Greek authors. The tenses given in the paradigm are all formed regularly on the principles of *analogy* alone, regardless of the opposite principles of *anomaly* which prevail in the usage of the Greek writers themselves. In *Attic Prose* none of the tenses given in the grammars are found except the present and imperfect, active and passive, *τύπτω* and *ἔτυπτον, τύπτομαι* and *ἐτυπτόμην*. The future active is not *τύψω* but *τυπτήσω*, and the aorists in use are borrowed from other verbs, and are really *ἐπάταξα* and *ἐπλήγην*. *ἔτυψα* is never found in Attic Prose, and the reference to Lysias, *fragment* 10, 2, given in Veitch's *Greek Verbs*, and repeated, apparently without verification, in Liddell and Scott's Lexicon, supplies us with no real exception. The passage, when examined, proves to be part of an exposition of a possibly genuine speech of Lysias, written by the anonymous author of the *προλεγόμενα τῶν στάσεων* (*Rhetores Graeci* VII p. 15 Walz, cf. Spengel's *Artium Scriptores* p. 137). The words used by this late writer are: *ἐγκύμονά τις ἔτυψε κατὰ γαστρὸς καὶ κρίνεται φόνου*, where Lysias himself would undoubtedly have written *ἐπάταξεν*, as is proved by a passage in Or. 13 § 71, *ὁ Θρασύβουλος* **τύπτει** *τὸν Φρύνιχον καὶ καταβάλλει* **πατάξας**. The following passages will further illustrate the prose usage of this defective verb, Lysias, Or. 4 § 15, *πότερον* **ἐπλήγην** *ἢ* **ἐπάταξα**; id. Or. 1 §§ 25—27, where *πατάξας καταβαλλω* is followed by the corresponding passive forms *πληγεὶς κατέπεσεν*, Dem. Or. 4 § 40, *ὁ* **πληγεὶς** *κἂν ἑτέρωσε* **πατάξῃς**, Thuc. VIII 92, *ὁ Φρύνιχος* **πληγεὶς** followed by *ὁ* **πατάξας** *διέφυγεν*. Again in Plato's *Laws*, p. 879 D—E, we have *τύπτοντα* and *τύπτειν* followed by *πατάξαι*, and soon after, **τύπτει** *τῇ μάστιγι* followed by *ὅσας ἂν αὐτὸς* **πατάξῃ**: so in p. 880 B, *ἐάν τις* **τύπτῃ** *τὸν πρεσβύτερον...τῇ τοῦ* **πληγέντος** *ἡλικίᾳ*, and in p. 882 the last two forms occur twice over. Cf. Aristot. *Eth.* v 5 § 4, *ὅταν ὁ μὲν* **πληγῇ** *ὁ δὲ* **πατάξῃ**, *Rhet.* I 15 § 29, *ὁμοῖα καὶ εἰ ἰσχυρὸς ἀσθενῆ* **πατάξαι** *ἢ* **πληγῆναι** *προκαλέσαιτο*, *Eth.* v 5 § 4, *εἰ ἀρχὴν ἔχων* **ἐπάταξεν**, *οὐ δεῖ ἀντι-***πληγῆναι**, *καὶ εἰ ἄρχοντα* **ἐπάταξεν**, *οὐ* **πληγῆναι** *μόνον δεῖ ἀλλὰ καὶ κολασθῆναι*. *Rhet.*

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* It is quoted ἐτυψάμην in Graefenhan, *Geschichte der Classischen Philologie*, II p. 481, q.v.; but Dionysius appears in the rest of the chapter to confine himself to *tenses in actual use*, and is therefore likely to have avoided ἐτυψάμην.

I 15 § 29, **πατάξαι** ἢ **πληγῆναι**, *de anima* B, 8, p. 419 *b* 15, τὸ **τύπτον** καὶ τὸ **τυπτόμενον**...ἂν **πληγῇ**, p. 420 *a* 24, οὐ δὴ πᾶν ψοφεῖ **τυπτόμενον** καὶ **τύπτον**, οἷον ἐὰν **πατάξῃ** βελόνη βελόνην, p. 423 *b* 16, πληγεῖσα ἐπάταξεν, *Soph. Elench.* p. 168 *a* 6, ἄν τις **τύπτῃ** τοῦτον καὶ τοῦτον, ἄνθρωπον ἀλλ' οὐκ ἀνθρώπους **τυπτήσει**, and *Meteorologica*, p. 368 *a* 18, τύπτων...τύπτον...τύπτεται, p. 371 *b* 10, ᾗ μέλλει **πατάξειν** κινεῖται πρὶν **πληγῆναι**, while three lines below we find ὃ ἐὰν **πατάξῃ**.—Among other parts similarly borrowed we have πέπληγα, πέπληγμαι, πεπλήξομαι and πληγήσομαι.—So in Latin *ferio*, *percussi*, etc.

But one of the best studies on this point of usage is the Speech of Demosthenes κατὰ Κόνωνος, where we find the following forms; in § 18 τύπτειν, in § 17 τύπτων, in § 4 ἔτυπτον, in §§ 32 and 35 τυπτόμενον, with the verbal τυπτητέος in § 44. Again in § 31 we have πατάξαι (*not* τύψαι or πλῆξαι), and in § 33 ἐπλήγην (not ἐπατάχθην, or ἐτύπην, much less ἐτύφθην). Further in § 25 πατάξαντι stands side by side with τύπτειν; and lastly we have the phrases πληγὰς ἐνέτειναν (§ 5) and εἰληφέναι καὶ δεδωκέναι πληγὰς (§ 14), which assist in making up for the defective tenses. It is reserved for the late writer who composed the *Argument* to use the unclassical form τετυπτῆσθαι.

For the usage of this verb in Attic *Verse*, see Veitch's excellent book on *Greek Verbs*, where it will be noticed that almost the only part used besides those found in Prose is τυπείς; the student should also read the interesting criticisms of Cobet in pp. 330—343 of his *Variae lectiones*, and the corresponding passage in Rutherford's *New Phrynichus*, p. 257 ff.

The following is a conspectus of the parts in use in Attic Greek, classified under the two meanings of the verb:—

(*a*) *I strike* or *wound*, L. *ferio, vulnero.*	(*b*) *I thrash*, L. *caedo, verbero.*
ACTIVE.	
τύπτω, παίω, πληγὴν δίδωμι.	τύπτω, παίω, πληγὰς δίδωμι, ἐμβάλλω, ἐντείνω, ἐντρίβω.
πατάξω (Eur. and Xen. παίσω).	τυπτήσω.
ἐπάταξα (Trag. and Xen. ἔπαισα).	πληγὰς ἐνέβαλον (ἔπαισα).
πέπληγα.	πέπληγα, πληγὰς δέδωκα.
PASSIVE.	
τύπτομαι, πληγὴν λαμβάνω.	τύπτομαι, παίομαι, πληγὰς λαμβάνω.
πεπλήξομαι, πληγήσομαι.	τυπτήσομαι, πληγὰς λήψομαι.
ἐπλήγην.	πληγὰς ἔλαβον.
πέπληγμαι.	πληγὰς εἴληφα.

[The above Excursus, in the form in which it appeared in 1875, has been translated into German by Dr L. Schmidt in the *Paedagogisches Archiv*, xxv(I) 1883, p. 62—5.]

EXCURSUS (B).

On the quantity of ἔμπυος (*Or.* 54 § 12).

In Soph. *Phil.* 1378, the phrase ἔμπυος βάσις is used with reference to the festering foot of Philoctetes, but the position of the words, at the end of an iambic line, leaves the quantity undetermined. This may however be ascertained (i) by the accent of the word from which it is derived, viz. πύον, which according to the express statement of the grammarian Arcadius should never be written πῦον; (ii) by the fact that Empedocles (336, πύον ἔπλετο λευκόν) makes the first syllable of πύον short. We may compare the Latin *pŭter* where the corresponding syllable is short, although in *pūteo* and *pūtidus* (as in πῡθω), it is long. We may further notice that the adjective and its derivatives occur (as might be expected) not unfrequently in Hippocrates and the medical writers; and that one of these, Galen (lib. xiii p. 876), quotes in full an Elegiac poem in which Andromachus the elder (fl. 50 A.D.), in describing the virtues of his potent antidote, or *θηριακὴ δι' ἐχιδνῶν*, has the following couplet, which determines the quantity of the word:

καὶ μογερῶν στέρνων ἀπολύσεται ἔμπυον ἰλύν
πινομένη πολλοὺς μέχρις ἐπ' ἠελίους.

Hence we conclude that the lexicons of Liddell and Scott (ed. 6*) and of Pape are unwarranted in marking the penultimate as long;—an oversight which does not occur in the fourth edition of the former lexicon, and is doubtless due to a confusion between the quantities of *τὸ πῠ́ον*, the Latin *pus*, and *ὁ πῡός*, the Lat. *colostra* (or beestings).

EXCURSUS (C).

On the meaning of αὐτολήκυθος (*Or.* 54 § 14).

The exact meaning of this word is difficult to determine, and the Grammarians content themselves with giving us a wide choice of conflicting explanations. Harpocration, for instance, has the following article.

Αὐτολήκυθοι: Δημοσθένης κατὰ Κόνωνος, (1) ἤτοι ἀντὶ τοῦ εὐζώνους τινὰς καὶ ἑτοίμους πᾶν ὁτιοῦν ποιεῖν καὶ ὑπομένειν, (2) ἢ ἀντὶ τοῦ πένητας καὶ μηδὲν ἄλλο κεκτημένους ἢ ληκύθους, (3) ἢ αὐτουργούς, (4) ἢ ἀντὶ τοῦ εἰς πληγὰς ἑτοίμους καὶ οἷον τύπτοντας καὶ μαστιγοῦντας καὶ ὑβρίζοντας, (5) ἢ λέγοι ἂν τοὺς ἐκ προχείρου διδόντας ἀργύριον....

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* In ed. 7 (1883) the quantity is not marked.

He further states that Menander used the word in two of his comedies, and attempts to support the last of the above interpretations by showing from Diphilus, that money was occasionally carried about in the λήκυθος: and the last but one by appealing to Menander for the fact that the thong or strap (ἱμάς), by which the λήκυθος was suspended about the person, might be detached from the flask and used as a whip. None of these five explanations is convincing, and the last two are almost certainly wrong. An indication of the true meaning may however be gathered from the second. Any respectable Athenian in going to the public baths would be naturally attended by his slave carrying the master's λήκυθος or oil-flask, &c. Compare, for the Roman custom, Varro *R. R.* i 55 § 4 (*olea*) *dominum in balnea sequitur.* The fraternity of young men, alluded to in the text, may have gone on the principle of discarding the attendance of their slaves and carrying their own λήκυθοι, either to be free from the slight restraint which the company of their servants might put upon their practical jokes and wild escapades, or by way of assuming a lower grade of respectability than their birth would warrant, and availing themselves of that disguise either as a mere freak of youthful pleasantry or as a cloak for acts of outrage and disorder. If this view is tenable, the general sense of the title may be kept up by some such rendering as 'gentleman beggars,' 'amateur tramps.'

This explanation is in part confirmed by one of the guesses recorded in Bekker's *Anecdota Graeca* 465, 17 where αὐτολήκυθος is explained ὁ πένης ἀπὸ τοῦ ἑαυτῷ τὰς ληκύθους εἰς τὰ βαλανεῖα εἰσφέρειν. Again, Hesychius has αὐτολήκυθοι· οἱ πένητες, οἱ μόνην λήκυθον ἔχοντες· ἢ δι' ἑαυτῶν βαστάζοντες τὴν λήκυθον, οὐ δι' οἰκετῶν. Pollux, x 62, refers to the passage in Demosthenes, and quotes a parallel from the comic poet Antiphanes, Meineke

Com. Graec. fragm. III 7, καὶ αὐτοληκύθους δέ τινας Δημοσθένης ἐν τῷ κατὰ Κόνωνος ὀνομάζει οὓς σαφέστερον ἂν τις ἐν τῷ Ἀντιφάνους Ἀθάμαντι κεκλῆσθαι λέγοι·

χλαμύδα καὶ λόγχην ἔχων
ἀξυνακόλουθος ξηρὸς αὐτολήκυθος.

As another nickname attaching to one of these Clubs we have Τριβαλλοὶ in § 39; and in Athenaeus a coterie of Athenian wits is mentioned in the time of Philip of Macedon and therefore nearly coincident in date with the Clubs in the text; these wits or γελωτοποιοί went by the name of 'the sixty' (Athen. XIV 614). Cf. also Lysias, *fragm.* 53, κατὰ Κινησίου: οὐ μετὰ τούτου ποτὲ Ἀπολλοφάνης καὶ Μυσταλίδης καὶ Λυσίθεος συνειστιῶντο, μίαν ἡμέραν ταξάμενοι τῶν ἀποφράδων, ἀντὶ νουμηνιαστῶν κακοδαιμονιστὰς σφίσιν αὐτοῖς τοὔνομα θέμενοι;

EXCURSUS (D).

On the Τριβαλλοὶ *of Or.* 54 § 39.

The Triballi were a wild Thracian people occupying the region north of the range of Haemus and south of the Danube, now known as Servia. Their character is often described in unfavourable terms: thus Isocrates (*de pace* § 50) speaks of their δυσγένεια as opposed to the εὐγένεια of Athens, and (*Panath.* § 227) denounces them as leagued against all their neighbours: ἅπαντές φασιν ὁμονοεῖν μὲν (τοὺς Τριβαλλοὺς) ὡς οὐδένας ἄλλους ἀνθρώπους, ἀπολλύναι δ' οὐ μόνον τοὺς ὁμόρους καὶ τοὺς πλησίον οἰκοῦντας ἀλλὰ καὶ τοὺς ἄλλους ὅσων ἂν ἐφικέσθαι δυνηθῶσιν. Lastly the comic poet Alexis (who flourished in B.C. 356, a date but slightly anterior to the present speech), attacking, apparently, some rude and uncivilised custom, describes it as too barbarous even for the Triballi, *οὐδ᾽ ἐν Τριβαλλοῖς ταῦτά γ᾽ ἐστὶν ἔννομα | οὗ φασὶ τὸν θύοντα τοῖς κεκλημένοις | δείξαντ᾽ ἰδεῖν τὸ δεῖπνον, εἰς τὴν αὔριον | πωλεῖν ἀδείπνοις ἅπερ ἔθηκ᾽ αὐτοῖς ἰδεῖν* (ap. Athen. xv p. 671). Cf. Ar. *Aves* 1530.

According to the speaker, Conon and his two companions were, as mere striplings (*μειράκια*), known by a name borrowed from these lawless Triballi. Now if the speech was (as is very probable) delivered in B.C. 341 (see p. lxii) when Conon was rather more than 50 years of age (§ 22), he would be a *μειράκιον*, or about 15 years of age, 35 years previous, viz. B.C. 376. By a coincidence, which has apparently remained unnoticed, this brings us to the very year in which the wild Triballi crossed the Haemus with a strong force, ravaged the southern coast of Thrace near Abdera and were forced to retreat by the Athenian commander Chabrias (Diodor. xv 36). The name of the barbarous tribe would therefore be on the lips of all Athens during the youth of Conon and his friends, and would readily find currency as a slang term of the day.

We may compare with the Τριβαλλοί, the disorderly Clubs to which Conon's son belonged, the *ἰθύφαλλοι* and *αὐτολήκυθοι* of § 14; and we may suggest in passing that the special form of the appellation, apart from its general applicability, probably turned on a play of words (e.g. *τρίβειν τοὺς ἄλλους* or others more or less obvious). Cf. Photius s.v. (quoting this passage) *οἱ ἐν τοῖς βαλανείοις ἀναγώγως διατριβόμενοι· οἱ δὲ τοὺς εἰκαίους καὶ τοὺς βίους κατατρίβοντες.* Hesychius (*inter alia*) *οἱ ἐπὶ τὰ δεῖπνα ἑαυτοὺς καλοῦντες.* The *Scholia* on Aeschines I § 52 (*τούσδε τοὺς ἀγρίους ἄνδρας*) couple together Τριβαλλοὶ (cf. Plin. *N. H.* VII 2) and *Κένταυροι* as infamous appellatives, and lastly the comic poet Eubulus (fl. B.C. 375) has the line *Τριβαλλοποτανόθρεπτα μειρακύλλια.*

As an exact parallel to the Triballi in the text and the other clubs already mentioned, we have in English literature the 'nocturnal fraternity of the Mohock-club,—a name borrowed from a sort of cannibals in India' (i.e. North America). The practical jokes of that 'worthy society of brutes,' and 'well-disposed savages,' will be familiar to the readers of the Spectator (Nos. 324, 332 and 347; *anno* 1712). Cf. also Gay's *Trivia* III 325—328:

> Who has not heard the *Scowrer's* midnight fame?
> Who has not trembled at the *Mohock's* name?
> Was there a watchman took his hourly rounds,
> Safe from their blows, or new-invented wounds?

As German parallels we have the names *Polacken*, *Tartaren*, *Husaren* and *Kroaten* (quoted by Reiske); similarly in French, *Cosaques* and *Pandours* (mentioned by M. Dareste).

LV.

ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ

ΠΕΡΙ ΧΩΡΙΟΥ ΒΛΑΒΗΣ[a].

ΥΠΟΘΕΣΙΣ.

Καλλικλῆς, πρὸς ὃν ὁ λόγος, καὶ ὁ τὴν δίκην ὑπ᾽ ἐκείνου διωκόμενος[b] γείτονες ἦσαν ἐν χωρίῳ, ὁδῷ μέσῃ διειργόμενοι. δυσομβρίας[c] δὲ συμβάσης, εἰς τὸ Καλλικλέους χωρίον ὕδωρ ἐμπεσὸν ἐκ τῆς ὁδοῦ κατελυμήνατο. ἐπὶ τούτῳ διώκει βλάβης τὸν γείτονα· εἶναι γάρ φησιν ἐν τῷ Τεισίου χωρίῳ χαράδραν εἰς ὑποδοχὴν τοῦ ὕδατος τοῦ ἐκ τῆς ὁδοῦ ποιηθεῖσαν, ἣν ἀποικοδομηθεῖσαν[d] νῦν αἰτίαν ἑαυτῷ βλάβης γενέσθαι. ὁ δὲ τοῦ Τεισίου παῖς πρῶτον μὲν παλαιὸν καὶ οὐ δι᾽ ἑαυτοῦ τὸ ἔργον δείκνυσι· ζῶντας γὰρ ἔτι καὶ τοῦ Καλλικλέους πατρὸς ἀποικοδομηθῆναι τὴν χαράδραν φησὶν ὑπὸ τοῦ Τεισίου· ἔπειτα συνίστησιν ὡς οὐδὲ χαράδρα τις,

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[a] *addidit* Bl. *ex Harpocr.* s.v. χλῆδος, *Priscian.* xvii 126.

[b] Sauppe (Bl.). *διώκων codices; φεύγων* H. Wolf, Bekker st., Dind.

[c] *δηωβίας* F. *δη βίας* B. *δύο βίας* S. *διυοβίας vulgo. margo editionis Parisiensis* (1570) *habet et δυσομβρίας* (Dind., Bl.) *quod nusquam alias legitur, et ἐπομβρίας* (Z *et* Bekker st.) *quod occurrit infra* § 11 *γενομένης ἐπομβρίας.*

[d] Reiske (Bekker st.). *ἀπωκοδομήσας* SFB. *ἀποικοδομήσας vulgo. ἀποικοδομήσαντα* Sauppe (Dind.), *coll.* § 12.

11. *συνίστησιν*] The word is used in late Greek in the sense 'to give proof of,' e.g. Polyb. III 101 § 4 *ἐπειρᾶτο συνιστάνειν ὅτι*... We may therefore perhaps render it 'he attempts to prove.' [Perhaps *ἐνίστησιν*, 'he objects.' P.]

ἀλλὰ χωρίον ἐστί[e]. διασύρει δὲ καὶ τὴν συμβᾶσαν τῷ Καλλικλεῖ βλάβην ὡς μικρὰν καὶ οὐκ ἀξίαν τηλικαύτης δίκης, καὶ τὸ ὅλον ἠδικῆσθαι μὲν οὐδέν φησι τὸν Καλλικλέα, ἐπιθυμεῖν δὲ τῶν χωρίων τῶν ἑαυτοῦ καὶ διὰ τοῦτο συκοφαντίας μηχανᾶσθαι πάσας.

1272 Οὐκ ἦν ἄρ' ὦ ἄνδρες Ἀθηναῖοι χαλεπώτερον οὐδέν, ἢ γείτονος πονηροῦ καὶ πλεονέκτου τυχεῖν, ὅπερ ἐμοὶ νυνὶ συμβέβηκεν. ἐπιθυμήσας γὰρ τῶν χωρίων μου Καλλικλῆς οὕτω διατέθηκέ[f] με συκοφαντῶν, ὥστε πρῶτον μὲν τὸν ἀνεψιὸν τὸν ἑαυτοῦ κατεσκεύ-

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[e] *οὐδὲ χαράδρα τις ἀλλὰ χωρίον ἐστὶ* Bl. *cum margine ed. Parisiensis* (cf. § 12 *ἀποδείξω χωρίον ὂν τοῦτ' ἀλλ' οὐ χαράδραν*). *οὐδὲ χαράδρα τις τὸ χωρίον ἐστὶ vulgo.*

[f] Bl. (Meisterhans, *Gr.*, p. 152²). *διατέθεικεν codices.*

12. *διασύρει*] makes light of the damage done. See §§ 23—26. Dem. Or. 13 § 12 *διέσυρε* ('depreciated') *τὰ παρόντα καὶ τοὺς προγόνους ἐπῄνεσε.*

§§ 1, 2. *There is really no greater nuisance, gentlemen, than a greedy neighbour, as I have found to my cost in the case of the plaintiff Callicles. He has set his heart upon my property, and has therefore by every legal means, direct or indirect, made me the victim of a vexatious persecution.*

Though I am no speaker myself, yet, if the court will give me their attention, the facts themselves will prove the baselessness of the present action.

1. *οὐκ ἦν ἄρ'—τυχεῖν*] For *οὐκ ἦν ἄρα*, 'there is not really after all,' cf. Soph. O. C. 1697 *πόθος καὶ κακῶν ἄρ' ἦν τις*, and for this use of *ἦν*, especially with *ἄρα*, to express a fact which is and always has been the same, see the examples given in Liddell and Scott, s.v. *εἰμί*, *F.*

For the general sense, cf. Hesiod's *Works and Days* 345 *πῆμα κακὸς γείτων*, and esp. Aristot. Rhet. II 21 § 15 *εἴ τις γείτοσι τύχοι κεχρημένος... φαύλοις, ἀποδέξαιτ' ἂν τοῦ εἰπόντος ὅτι οὐδὲν γειτονίας χαλεπώτερον.*

'The plaintive reflexion, *οὐκ ἦν—τυχεῖν*, harmonizes with the naïve and expostulatory tone of the speech, and at the same time gives with refreshing novelty of form the common disclaimer of litigiousness.' Kirk's *Demosthenic Style in the Private Orations*, p. 24.

συκοφαντῶν] 'by his vexatious litigation, his petty persecution.' The word is always difficult to render, and we have generally to be guided by the context for the exact equivalent in English.

κατεσκεύασεν] 'suborned his cousin to claim it from me.' The verb, here followed by the

2 *ασεν ἀμφισβητεῖν μοι τῶν χωρίων, ἐξελεγχθεὶς δὲ φανερῶς καὶ περιγενομένου μου τῆς τούτων σκευωρίας, πάλιν δύο δίκας ἐρήμους μου κατεδιητήσατο, τὴν μὲν αὐτὸς χιλίων δραχμῶν, τὴν δὲ τὸν ἀδελφὸν τουτονὶ πείσας Καλλικράτην*[g]*. δέομαι δὴ πάντων ὑμῶν ἀκοῦσαί μου καὶ προσέχειν τὸν νοῦν, οὐχ ὡς αὐτὸς δυνησόμενος εἰπεῖν, ἀλλ' ἵν' ὑμεῖς ἐξ αὐτῶν τῶν πραγμάτων καταμάθητε, ὅτι φανερῶς συκοφαντοῦμαι.*

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[g] *γρ* FBQ. Καλλικρατίδην Z *et* Bekker st. Καλλικρατίτην SFBQ.

infinitive, most commonly takes an accusative, e.g. § 34 *τὸν ἀνεψιὸν κατεσκεύασε*, Or. 54 § 14.

2. *σκευωρίας*] 'intrigue, jobbery.' Or. 36 § 33 *πλάσμα καὶ σκευώρημα.*

δίκας ἐρήμους—κατεδιητήσατο] 'got two awards (in arbitration) decided against me by default (for non-appearance).' Or. 21 (Mid.) §§ 84, 85 (*Στράτων ὁ διαιτητὴς*) *ὡς οὔτ' ἐγὼ συνεχώρουν οὔθ' οὗτος* (Midias) *ἀπήντα, τῆς δ' ὥρας ἐγίγνετο ὀψέ, κατεδιήτησεν. ἤδη δ' ἑσπέρας οὔσης καὶ σκότους ἔρχεται Μειδίας... καὶ καταλαμβάνει τὸν Στράτωνα ἀπιόντ' ἤδη, τὴν ἔρημον δεδωκότα. τὸ μὲν οὖν πρῶτον οἷός τ' ἦν πείθειν αὐτὸν, ἣν καταδεδιητήκει, ταύτην ἀποδεδιητημένην ἀποφέρειν.*

ἔρημος in Attic has usually two terminations only: hence *ἐρήμους δίκας*, which was perhaps preferred to *ἐρήμας δίκας* on grounds of euphony. In § 6 however we find *ἐρήμην κατεδιητήσασθε*, possibly to avoid the ambiguity arising from the ellipse of *δίκην*, and in § 31 we have *ἐρήμην μου καταδεδιήτηται τοιαύτην ἑτέραν δίκην.*

τὴν μὲν χιλίων] The same suit is described in § 31 (quoted in last note) as similar to the suit in which this speech is spoken. The damages in the latter are also fixed at 1000 drachmae, § 25.

πείσας] sc. *καταδιαιτήσασθαι.*

Καλλικράτην] On the part taken in these lawsuits by Callicrates, the brother of the plaintiff Callicles, see A. Schaefer, *Dem. und seine Zeit* III 2, p. 254 note.

§§ 3—7. (*My opponents bring an action for damages on the ground that the building of a wall enclosing my property has stopped a water-course, and thus diverted the drainage of the surrounding hills on to the property of the plaintiff on the opposite side of the road.*)

In answer to all their arguments, I have simply to plead that my father built that wall fifteen years before his death, without any objection, formal or informal, on the part of the plaintiff's family, who are now attempting to take advantage of my youth and inexperience.

I also challenge them to prove the existence of the alleged water-course (§ 6).

Ἐν μὲν οὖν ὦ ἄνδρες Ἀθηναῖοι πρὸς ἅπαντας 3
τοὺς τούτων λόγους παρέχομαι[h] δίκαιον. τὸ γὰρ
χωρίον τοῦτο περιῳκοδόμησεν ὁ πατὴρ μικροῦ δεῖν
πρὶν ἐμὲ γενέσθαι, ζῶντος μὲν ἔτι Καλλιππίδου τοῦ
τούτων[i] πατρὸς καὶ γειτνιῶντος, ὃς ἀκριβέστερον
ᾔδει δήπου τούτων, ὄντος δὲ Καλλικλέους ἀνδρὸς ἤδη
καὶ ἐπιδημοῦντος Ἀθήνησιν καὶ [j]πλέον μὲν ἢ πεντε- 4
καίδεκ' ἔτη τοῦ πατρὸς ἐπιβιόντος[k], οὐκ ἐλάττω δὲ
τοῦ τούτων πατρὸς [Καλλιππίδου][j]. ἐν τούτοις τοῖς

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[h] '§ 7; *non deterior lectio est in* Ar *et* γρ FBQ ὑπάρχει μοι (§§ 9, 14)' Bl. [i] Bekk. *cum* r. τουτου τοῦ S. τοῦ τούτου Z.

[j–j] *verba quae in codicibus post* διεμαρτύρατο *leguntur transposuit* Bl., *addens* καὶ *ante* πλέον, *delens* δὲ *inter* ἐν *et* τούτοις, *coll.* 41 § 18; *idem seclusit* Καλλιππίδου '*repetitum; etiam propter hiatum, qui in hac or. etiam in pausa vitari solet.*'

[k] Bl. *coll. Bamberg, Zeitschr. f. Gymn.-W.* 1874, 38. ἐπιβιοῦντος *codices.*

3. δίκαιον] 'a fair and legal plea.' Or. 54 §§ 27, 29, 42.

γὰρ] See note on Or. 53 § 4.—ὁ πατήρ, sc. Teisias § 5.—μικροῦ δεῖν πρίν, 'almost before' (i.e. 'a very short time after') I was born; *not* 'within a little before,' 'just before.'

Καλλιππίδου τοῦ τούτων πατρὸς] The two sons Καλλικλῆς and Καλλικράτης bear names similar to their father's, Καλλιππίδης, all three being compounds of κάλλος. 'Thus we have Ναυσίφιλος Ναυσινίκου, and Καλλίστρατος Καλλικράτους. So also brothers' names sometimes varied but slightly, as Diodotus and Diogeiton' (Becker's *Charicles* p. 220 Eng. ed.). Cf. part i p. 136.

ἀνδρὸς ἤδη] Having attained to man's estate and being resident at Athens, Callicles might have brought an action long ago, if he felt himself aggrieved. P.]

4. ἐπιβιόντος] Here, and elsewhere (Or. 41 §§ 18, 19; Plat. Rep. 615 c, Aeschin. 1 § 5) the MSS give the incorrect form -βιοῦντος, instead of the true form of the aorist participle, -βιόντος. The corresponding indicative occurs in § 32 ἐπεβίω, and Thuc. ii 65 (of Pericles) ἐπεβίω δύο ἔτη καὶ μῆνας ἓξ καὶ ἐπειδὴ ἀπέθανεν κ.τ.λ. The *first* person ἐπεβίων is naturally rare, as the aorist of this verb is mainly applicable to those who are no longer living; but Thuc. v 26 has ἐπεβίων διὰ παντὸς (τοῦ πολέμου). In Attic Greek ἐβίων, like βιώσομαι, βεβίωκα and βεβιωμένος, is used to supplement the defects of ζῆν, which is itself hardly used except in the present and imperfect active. ζήσω is very rare. (See Cobet, *variae lect.* p. 610.)

ἔτεσιν ἅπασιν οὔτ' ἐγκαλῶν οὐδεὶς πώποτ' ἦλθεν
οὔτε μεμφόμενος (καίτοι δῆλον ὅτι καὶ τόθ' ὕδατα
πολλάκις ἐγένετο[l]), οὐδ'[m] ἐκώλυσεν ἐξ ἀρχῆς, εἴπερ 1273
ἠδίκει τινὰ περιοικοδομῶν ὁ πατὴρ τὸ ἡμέτερον[n]
χωρίον, ἀλλ' οὐδ' ἀπηγόρευσεν οὐδὲ διεμαρτύρατο.
5 καίτοι, ὦ Καλλίκλεις, ἐξῆν δήπου τόθ' ὑμῖν, ὁρῶσιν

[l] Z *et* Bekk. st. *ἐγίγνετο* Bekk. 1824 *cum* Ar.

[m] Bl. *οὔτ' vulgo*, *καὶ οὔτ'* Ar.

[n] *om.* Ar. Cf. § 29.

καίτοι—ὕδατα πολλάκις ἐγένετο] 'and yet of course it often rained then, just as it does now,'—a touch of quiet humour characteristic of this speech. (*ὕδωρ γενέσθαι* literally refers to *rain*, though floods are implied as a necessary consequence. Ar. Vesp. 265 *δεῖται...ὕδωρ γενέσθαι κἀπιπνεῦσαι βόρειον αὐτοῖς.*)

εἴπερ ἠδίκει] (As he would have done) if my father was wronging any one...(But he did *not* prevent him; and not only so,) but &c. P.]

ἀπηγόρευσεν] 'forbade.' In Classical Greek, *ἀγορεύω* and its compounds are seldom found except in the present and imperfect tenses; the remaining tenses and the verbal derivatives being generally borrowed from *ἐρῶ*, *εἶπον*, *εἴρηκα*, *εἴρημαι*, *ἐρρήθην*, *ῥηθήσομαι*, with *ῥῆσις*, *ῥητὸς*, *ῥητέον*. Thus *ἀναγορεύω* (to proclaim) has for its imperfect *ἀνηγόρευον*, while the correct forms for the other parts are, *ἀνερῶ*, *ἀνείρηκα*, *ἀνεῖπον*, *ἀνερρήθην* and *ἀνάρρησις* &c., instead of *ἀναγορεύσω*... *ἀναγόρευσις* &c. The strict rule, however, as to this verb and its compounds, has its exceptions, in the case of *προσαγορεύω* (e.g. *προσαγορευθῇ* 40 § 1), and partially also in *ἀπαγορεύω*. Thus instead of the more usual *ἀπεῖπεν*, we here find *ἀπηγόρευσεν*, which also occurs in Dem. Or. 40 § 44 *ἀπηγόρευσεν αὐτῷ μὴ διαιτᾶν* and Arist. Oecon. II 24: Plat. Theaet. p. 200 *ἀπαγορεύσῃς*. In Ar. Pax 107 we have *καταγορεύσῃ*. (See Cobet's *variae lectiones* p. 35—39 and *novae lectiones* p. 778; *Mnemosyne* N.S. II p. 127; also Veitch, *Greek Verbs* p. 10, ed. 1871; Shilleto on *Fals. Leg.* p. 397, and Rutherford's *New Phrynichus*, p. 326.)

διεμαρτύρατο] 'formally protested.'. Or. 33 § 20 *διαμαρτυραμένου τοῦ ἀνθρώπου ἐναντίον μαρτύρων*, de Cor. § 28 *μὴ σιγῆσαι...ἀλλὰ βοᾶν καὶ διαμαρτύρεσθαι* (ib. 143); Or. 42 § 28. It must not be confounded with *διεμαρτύρησε*, 'put in a *διαμαρτυρία*' (see Meier and Schömann, p. 842 Lips.).

5. *ἐξῆν*] As usual, without *ἄν*. See note on *ἐχρῆν* Or. 45 § 17, followed, as here, by *ἵνα* with the indicative.

ὑμῖν] 'You and yours,' i.e. your father, your brother and (when at home, and not at Athens § 3) yourself. *ὑμεῖς* never stands for *σύ*, and it has been shown elsewhere that the passages quoted from Isocrates to prove the contrary will not bear examination (Isocr. ad Dem. § 2). So also, in Eur. Bacch. 252 *ἀναίνομαι πάτερ | τὸ*

ἀποικοδομουμένην τὴν χαράδραν, ἐλθοῦσιν εὐθὺς ἀγανακτεῖν καὶ λέγειν πρὸς τὸν πατέρα, "Τεισία, τί "ταῦτα ποιεῖς; ἀποικοδομεῖς τὴν χαράδραν; εἶτ' "ἐμπεσεῖται τὸ ὕδωρ εἰς τὸ χωρίον τὸ ἡμέτερον"· ἵν' εἰ μὲν ἐβούλετο παύσασθαι, μηδὲν °ἡμῖν ἦν δυσ-

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°—° ἡμῖν ἦν δυσχερὲς πρὸς ἀλλήλους Bekk. st. ὑμῖν—ἀλλήλους Dind. ὑμῖν δυσχερὲς πρὸς ἀλλήλους ἦν Bekk. 1824. ὑμῖν S *a me collatus;* ἡμῖν *manu prima in* ὑμῖν *mutatum* r. ὑμῖν ἦν (η S, ῆ FQ) δυσχερὲς πρὸς ἀλλήλους Z; δυσχερὲς πρὸς ἀλλήλους ἦ r (ῆ A).

γῆρας ὑμῶν εἰσορῶν νοῦν οὐκ ἔχον, the plural ὑμῶν refers to Cadmus and Teiresias, not to the former only. Again in Homer, Odyss. XII 81, we have ᾗπερ ἂν ὑμεῖς νῆα παρὰ γλαφυρὴν ἰθύνετε, φαίδιμ' Ὀδυσσεῦ, where ὑμεῖς refers to Odysseus and his comrades.

In Latin however the rule is perhaps less strictly kept, and *vester* appears to be used for *tuus* in Catullus 71, 3 *aemulus iste tuus qui vestrum exercet amorem*, probably the only instance of this exceptional use of plural for singular. The rule is only apparently broken in Virg. Aen. IX 525 *vos, o Calliope, precor, aspirate canenti.* Here *vos* refers to all the Muses, though Calliope alone is mentioned. (Cf. Aen. I 140 *vestras, Eure, domos.*) So too Cicero pro Deiot. § 29 *vos vestra secunda fortuna, Castor, non potestis sine propinquorum calamitate esse contenti?* (The plural *vos* is at once explained by *felix ista domus* in the previous sentence.)

τὴν χαράδραν] The word is not only used of the torrent itself, but also of the channel cut by the torrent's course (der. χαράσσω). Hesychius χαράδρα· χείμαρρος ποταμός. κατάγει δὲ οὗτος παντοῖα ἐν τῷ ῥεύματι καὶ κατασύρει. χαράδραι· αἱ χαράξεις τοῦ ἐδάφους. καὶ οἱ κοῖλοι τόποι ἀπὸ τῶν καταφερομένων ὀμβρίων ὑδάτων. The rendering 'water-course' will suit all the passages in which it occurs in the present speech.

τί ταῦτα ποιεῖς;] 'What are you about?' lit. 'why are you doing this?' 'Are you cutting off the water-course?'

ἀποικοδομεῖς] ἀντὶ τοῦ ἀποφράττεις ἀπολαβών τινα (?) οἰκοδομήματι· Δημοσθένης ἐν τῷ πρὸς Καλλικλέα. The above explanation from Harpocration, with the awkward τινὰ, does not entirely suit this passage, though he specially refers to this speech. But in Thuc. I 134, we read of Pausanias, ἔνδον ὄντα τηρήσαντες αὐτὸν καὶ ἀπολαβόντες εἴσω ἀπῳκοδόμησαν, and it seems likely that the lexicographer, or his transcribers, either had that passage itself in view, or carelessly incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.

ἵνα...ἦν] Cf. Or. 36 § 47; Goodwin's *Moods and Tenses* § 44, 3 (§ 333, ed. 1889). As an exact parallel to the whole of this sentence, we have Or. 28 § 5 ἐχρῆν (like ἐξῆν, *supra*)...

χερὲς πρὸς ἀλλήλους[o], εἰ δ' ὠλιγώρησε καὶ συνέβη
τι τοιοῦτον, μάρτυσιν εἶχες τοῖς τότε παραγενομένοις
6 χρήσασθαι[p]. καὶ νὴ Δί' ἐπιδεῖξαί γέ σ'[q] ἔδει πᾶσιν
ἀνθρώποις χαράδραν οὖσαν, ἵνα μὴ λόγῳ μόνον,
ὥσπερ νῦν, ἀλλ' ἔργῳ τὸν πατέρ' ἀδικοῦντ' ἀπέ-
φαινες. τούτων τοίνυν οὐδὲν πώποτ' οὐδεὶς ποιεῖν
ἠξίωσεν. οὐ γὰρ ἂν οὔτ' ἐρήμην, ὥσπερ ἐμοῦ νυνί,
κατεδιῃτήσασθε, οὔτε πλέον ἂν ἦν ὑμῖν συκοφαντοῦ-
7 σιν οὐδέν, ἀλλ' εἰ ἠνέγκατε τότε μάρτυρα καὶ ἐπε-
μαρτύρασθε, νῦν[r] ἀπέφαινεν ἂν ἐκεῖνος εἰδὼς ἀκρι-
βῶς ὅπως εἶχεν ἕκαστα τούτων, καὶ τοὺς ῥᾳδίως

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[p] Ar (Bl.). χρῆσθαι SFQ (Dind.).

[q] σέ γε Ar (Reiske). σε *vulgo* (Dind.). '*vel lege* γέ σε (Bl.) *coll.* 19 § 52, *vel potius dele* σε.' Dobree.

[r–r] Bekk. 1824, *et* G. H. Schaefer. εἰ ἠνέγκατε—νῦν *om.* Z *et* Bekk. st. *cum* SAr.

εἰσκαλέσαντας μάρτυρας πολλοὺς παρασημήνασθαι κελεῦσαι τὰς διαθήκας, ἵν', εἴ τι ἐγίγνετο ἀμφισβητήσιμον, ᾖν εἰς τὰ γράμματα ταῦτ' ἐπανελθεῖν.

ἡμῖν] 'in which case *you and I* would have been having no disputes with one another (as we now have).' ὑμῖν would refer to the defendant's father Teisias and the family of Callicles the plaintiff.

εἰ...συνέβη τι τοιοῦτον] i.e. εἰ ἐνέπεσεν τὸ ὕδωρ εἰς τὸ χωρίον τὸ ὑμέτερον.—μάρτυσι, referring to διεμαρτύρατο in § 4.

εἶχες] without ἄν, being dependent on ἵνα, like the preceding ἦν. '*intelligendum de Callicle, qui si tale quid olim factum esset, testibus* nunc *uti posset.*' G. H. Schaefer.

6. ἐπιδεῖξαι ... χαράδραν οὖσαν] § 12 ἐγὼ ἀποδείξω χωρίον ὂν τοῦτ' ἀλλ' οὐ χαράδραν.

ἵνα—ἀπέφαινες] Constr. ἵνα μὴ λόγῳ μόνον ἀπέφαινες τὸν πατέρα ἀδικοῦντα, ὥσπερ νῦν (ἀποφαίνεις), ἀλλ' ἔργῳ (ἀπέφαινες ἀδικοῦντα). λόγῳ and ἔργῳ (on which see Or. 46 § 9) are not to be taken with ἀδικοῦντα.—In the next sentence οὐδεὶς means οὐδεὶς ὑμῶν.

ἐρήμην...κατεδιῃτήσασθε] See § 2.

7. εἰ ἠνέγκατε — ἐπεμαρτύρασθε, νῦν] If we retain these words, ἐκεῖνος will refer to ὁ μάρτυς. If (with the best MSS) we omit them, it can only refer to ὁ πατὴρ (Teisias, who was no longer alive). The latter makes quite as good sense as the former; if we lose the antithesis between ὁ μάρτυς and τοὺς ῥᾳδίως μαρτυροῦντας, we gain the contrast between the father who would certainly have held his own, and the son whose youth and inexperience are held fair game by the plaintiff's party (τηλικούτου—καταπεφρονήκατε).

ῥᾳδίως] 'only too readily,'

τούτους[s] μαρτυροῦντας ἐξήλεγχεν. ἀνθρώπου δ' οἶμαι τηλικούτου καὶ ἀπείρου [τῶν[t]] πραγμάτων ἅπαντες καταπεφρονήκατέ μου[u]. ἀλλ' ἐγὼ πρὸς ἅπαντας τούτους ὦ ἄνδρες Ἀθηναῖοι τὰς αὐτῶν[v] πράξεις ἰσχυροτάτας μαρτυρίας παρέχομαι. διὰ τί γὰρ οὐδεὶς οὔτ' ἐπεμαρτύρατ' οὔτ' ἐνεκάλεσεν, ἀλλ' οὐδ' ἐμέμψατο πώποτε, ἀλλ' ἐξήρκει ταῦτ' αὐτοῖς ἠδικημένοις περιορᾶν;

1274 Ἐγὼ τοίνυν ἱκανὰ μὲν ἡγοῦμαι καὶ ταῦτ' εἶναι 8

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[s] Bekk. 1824 *cum* A. τούτοις Z *et* Bekk. st. *cum* SFQ.

[t] *secl.* Herwerden.

[u] *propter hiatum delendum putat* Bl.

[v] Bekk. αὐτῶν Z (αυτῶν S).

'recklessly,' 'at random.' Plat. Apol. p. 24 C ῥᾳδίως εἰς ἀγῶνας καθιστὰς ἀνθρώπους, Leg. 917 B θεῶν ὀνόματα μὴ χραίνειν ῥᾳδίως, Meno 94 E ῥᾳδίως κακῶς λέγειν ἀνθρώπους.

τούτους] The reading τούτοις is open to the objection that between κατεδιῃτήσασθε in the previous and καταπεφρονήκατε in the subsequent context, we expect, *not* the third person τούτοις, but the second person ὑμῖν, just as above we have οὐδὲν πλέον ἂν ἦν ὑμῖν.

If we retain the doubtful words at the beginning of § 7, the argument in favour of τούτους is yet stronger, and τούτοις is then still less defensible. ('*melior vulgata lectio*, τούτους, μάρτυρας *scilicet*,' Seager, *Classical Journal*, 1825, no. 61 p. 63.)

τηλικούτου] more commonly of great age (*tantae aetatis*), but here of extreme youth (*tantulae aetatis*). Soph. El. 614 ἥτις τοιαῦτα τὴν τεκοῦσαν ὕβρισεν, καὶ ταῦτα τηλικοῦτος (sc. οὖσα). Antig. 726. Plat. Apol. 25 D τοσοῦτον σὺ ἐμοῦ σοφώτερος εἶ τηλικούτου ὄντος (*so old*, of Socrates) τηλικόσδε ὤν (*so young*, of Meletus).

ἐξήρκει—περιορᾶν] 'they were content to submit to these wrongs.' The dative ἠδικημένοις, subordinate to περιορᾶν, follows the case of αὐτοῖς, which again depends on ἐξήρκει. Cf. Or. 54 §§ 16 and 44. Or. 3 § 23 εὐδαίμοσιν ὑμῖν ἔξεστι γίγνεσθαι. Madvig *Gk. Synt.* § 158 2 (3).—ταῦτ', acc. after ἠδικημένοις.—περιορᾶν, a verb characteristic of Greek prose and comedy (Porson on Eur. Med. 284 and Cobet *var. lect.* p. 338).

§§ 8, 9. *I contend that my father had a perfect right to build the enclosure, as even the plaintiff himself admits that the land is our own property. This being admitted, a personal inspection would in itself have sufficed to show the jury how groundless the present action is. And this was why I wanted (and my opponents refused) to submit the matter to the arbitration of impartial persons who knew the*

πρὸς τὴν τούτων ἀναίδειαν[w]. *ἵνα δ' εἰδῆτ' ὦ ἄνδρες*
Ἀθηναῖοι καὶ περὶ τῶν ἄλλων, ὡς οὔθ' ὁ πατὴρ οὐδὲν
ἠδίκει περιοικοδομῶν τὸ χωρίον οὗτοί τε κατεψευσμένοι
πάντ' εἰσὶν ἡμῶν, ἔτι σαφέστερον ὑμᾶς πειράσομαι
διδάσκειν. τὸ μὲν γὰρ χωρίον ὁμολογεῖται καὶ
9 *παρ' αὐτῶν τούτων ἡμέτερον ἴδιον εἶναι· τούτου δ'*
ὑπάρχοντος ὦ ἄνδρες Ἀθηναῖοι, μάλιστα μὲν ᾔδειτ'
ἂν ἰδόντες τὸ χωρίον ὅτι συκοφαντοῦμαι. διὸ καὶ
τοῖς εἰδόσιν ἐπιτρέπειν ἐβουλόμην ἐγώ, τοῖς ἴσοις.
ἀλλ' οὐχ οὗτοι, καθάπερ νυνὶ λέγειν ἐπιχειροῦσι·

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[w] Ar (Bl.). *κατηγορίαν vulgo.*

neighbourhood. Failing this, I *must ask the jury for their closest attention while I describe the position of the properties in question.*

8. *οὔθ'...τε*] Or. 54 § 26, Madv. *Gk. Synt.* § 208.

ἡμέτερον ἴδιον] 'our own private property,' stronger than *ἡμέτερον*. So in § 13. — The grammarian Priscian, who curiously regards *ἴδιος* as an exact equivalent to the Latin *suus*, has the following remark: *quod mirum est, hoc ipsum* [id est *τὸ ἴδιον*] *etiam primae et secundae adiungitur personae apud illos ut* Ἰσαῖος *ἐν τῷ πρὸς* Εὐκλείδην: *οὐκ ἂν τὰ ἴδια τὰ ἐμαυτοῦ* (fragm. 60). *Demosthenes ἐν τῷ πρὸς* Πολυ*κλέα: οὐ περὶ τῶν ἐμῶν ἰδίων μᾶλλον τιμωρήσεσθε* Πολυκλέα *ἢ οὐχ ὑπὲρ ὑμῶν αὐτῶν καὶ ἐν τῷ αὐτῷ οὐ περὶ πλείονος ἐποιησάμην τὰ ἐμαυτοῦ ἴδια ἢ τὰ ὑμέτερα* (Dem. Or. 50 §§ 66, 63). *ἐν δὲ τῷ πρὸς* Καλλικλέα *περὶ χωρίου βλάβης· τὸ μὲν γὰρ χωρίον— ἡμέτερον ἴδιον εἶναι. Phroenichus ποαστρίαις: ὥσπερ ἐμοῦ αὐτῆς ἴδιον, pro quo nos dicimus* 'meum proprium,' *et* 'tuum proprium.' *dicitur tamen etiam* 'suum proprium illius,' *ut non putetur abundare* 'suum,' *sed indubitabilem discretionem significare.* Priscian, *Instit.* p. 1089 —90.

9. *τούτου δ' ὑπάρχοντος*] 'this being admitted,' 'with this fact to begin upon.' Plat. Tim. p. 29 A *τούτων ὑπαρχόντων = τούτων ὑποκειμένων, his positis.*

ἰδόντες] = *εἰ εἴδετε*, Goodwin's *Moods and Tenses* § 52, 1 (§ 472, ed. 1889).

τοῖς εἰδόσι...τοῖς ἴσοις] § 35 *ἑτοῖμοι ἦμεν ἐπιτρέπειν τοῖς εἰδόσιν, ἴσοις καὶ κοινοῖς.* Or. 40 § 39 *ἐπιτρέπειν...διαιτητῇ ἴσῳ.* On 'private arbitrators' see note on Or. 54 § 26 *ἡ δίαιτα.*

In the present instance, the consent of the speaker's opponents was essential, and he insists (for all they urge to the contrary) that it was to their refusal that the failure of his attempt to secure an amicable settlement must be ascribed.

οὐχ οὗτοι] *ἐπιτρέπειν ἐβούλοντο.*—In the next sentence *ὑμῖν* and *πᾶσι* go together, *καὶ* emphasizing *τοῦτο.*

δῆλον δ' ὑμῖν καὶ τοῦτ' αὐτίκ' ἔσται πᾶσιν. ἀλλὰ προσέχετ' ὦ ἄνδρες Ἀθηναῖοι πρὸς Διὸς καὶ θεῶν τὸν νοῦν. τοῦ γὰρ χωρίου τοῦ τ' ἐμοῦ καὶ τοῦ τούτων τὸ μέσον[x] ὁδός ἐστιν, ὄρους δὲ περιέχοντος κύκλῳ τοῖς χωρίοις τὸ καταρρέον ὕδωρ τῇ μὲν εἰς

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[x] *μέσον* Z *et* Bekk. st. *τὸ manu antiqua insertum habet* S.

προσέχετε—τὸν νοῦν] 'I implore the jury, in the name of all that's sacred, to give me their best attention.' The earnestness of this appeal (*πρὸς Διὸς καὶ τῶν θεῶν*) is explained by the fact that unless the jury clearly understood the topographical details which here follow, the remainder of the speech would be almost unintelligible, and what applies to the original hearers holds equally good for the modern reader. The defendant has just informed the court that an actual inspection of the premises would have been decisive in his favour. He therefore naturally endeavours to compensate for that disadvantage by giving his audience a distinct description of the relative situation of the properties of the contending parties. [In modern courts a map or plan made by a surveyor would be produced. P.]

§§ 10, 11. *The estate of my opponents is separated from my own by a public road, and both are surrounded by a tract of mountainous country. Thus, the drainage from the hills flows partly into our properties, partly on to the road, and in the latter case, it is either carried down the road itself, or, if anything stops its course, it inundates the properties. On one occasion, the water made an inroad into what was subsequently my father's property, and, owing to neglect, made further inroad. Accordingly my father, on coming into possession, built this wall to protect his lands from the encroachments of his neighbours as well as from the inroad of the water.*

10. *τοῦ γὰρ—ὁδός ἐστι*] lit. 'for the space between their property and mine is a road,' i.e. 'there is a road between *their* property and my own.' *τὸ μέσον*, however, seems a less satisfactory reading than *μέσον*.

ὄρους περιέχοντος κύκλῳ] Xen. Hellen. IV 6 § 8 *διὰ τὰ κύκλῳ περιέχοντα ὄρη*. Plat. Critias 118 A *τὸ περὶ τὴν πόλιν πᾶν πεδίον ἐκείνην μὲν περιέχον αὐτὸ δὲ κύκλῳ περιεχόμενον ὄρεσι*.

τοῖς χωρίοις] This can hardly be taken with *περιέχοντος κύκλῳ*, which would require an accusative, nor again with *καταρρέον*, as we should then expect *τὸ τοῖς χωρίοις καταρρέον ὕδωρ*, which indeed is actually printed in Reiske's *Index Graecitatis* (with the explanation '*id est εἰς τὰ χωρία*'). Reiske's erroneous quotation may account for this passage being cited in Liddell and Scott as an instance of *καταρρεῖν* 'c. dat. *to rush down to a place*' (corrected in ed. 7, 1883).

A better explanation is either to construct it with *συμβαίνει* (which however is objectionable *τὴν ὁδόν, τῇ δ' εἰς τὰ χωρία συμβαίνει φέρεσθαι. καὶ δὴ καὶ τοῦτο τὸ*[y] *εἰσπῖπτον εἰς*[z] *τὴν ὁδόν, ᾗ μὲν ἂν εὐοδῇ, φέρεται κάτω κατὰ τὴν ὁδόν, ᾗ δ' ἂν ἐνστῇ τι, τηνικαῦτα τοῦτ'*[a] *εἰς τὰ χωρί' ὑπεραίρειν ἀναγκαῖον* 11 *ἤδη. καὶ δὴ καὶ*[b] *κατὰ τοῦτο τὸ χωρίον ὦ ἄνδρες δικασταὶ γενομένης ἐπομβρίας συνέβη τὸ ὕδωρ ἐμβαλεῖν· ἀμεληθὲν δ' οὔπω τοῦ πατρὸς ἔχοντος αὐτό,*

[y] + τὸ (Bl.). *om. vulgo.*

[z] εἰς FSQ. *legebatur* ἐνίοτε εἰς.

[a] *om.* Ar, '*recte fortasse*' Bl.

[b] Ar (Bl.). *om. vulgo.* καὶ δὴ καὶ εἰς Hirschig.

on account of the repetition of τὰ χωρία in the same sentence), or, better still, to understand it as a kind of *dativus incommodi.* In the latter case we might render as follows: 'between their property and mine there is a road; a hilly district encircles both; and *unfortunately for the properties* the water that flows down runs (it so happens) partly into the road, partly into the properties.'

[I should regard χωρίοις as the dative in relation to position; 'as these farms have mountains enclosing them on every side.' P.]

καὶ δὴ καὶ] 'and in particular.' After making a general reference to τὸ καταρρέον ὕδωρ, the speaker narrows his description to the water which runs down the road. In the next section, again, καὶ δὴ καὶ limits the subject still further to the water which on a special occasion made inroad into his own property.

ᾗ ἂν εὐοδῇ] 'wherever it has a free course.' Arist. gen. anim. I 18 ῥεῖ ὅπου ἂν εὐοδήσῃ τοῦ σώματος, and (as a passive in intransitive sense) ib. II 4 εὐοδεῖται μᾶλλον. Cf. *infra* § 11 τὸ ὕδωρ...μᾶλλον ὡδοποίει.

ᾗ ἂν ἐνστῇ τι] 'wherever anything stands in the way,' 'any obstacle intervenes.' Plat. Phaedo, 77 B ἔτι ἐνέστηκεν (instat, obstat) τὸ τῶν πολλῶν (of an objection in argument, ἔνστασις).

τηνικαῦτα κ.τ.λ.] 'why! thereupon it must of course overflow the properties.' τηνικαῦτα, though almost always used of *time*, occasionally (as here after ᾗ, which indicates *place*) bears a more general meaning, 'in that case,' 'under these circumstances.'

11. ἀμεληθὲν] It seems best to regard this as an accusative neuter *absolute* ('neglect having ensued'), and not to take it with τὸ ὕδωρ, much less with αὐτὸ, i.e. τὸ χωρίον. So in Plat. Phaedr. 265 D ὁρισθὲν 'it having been defined.' Or. 50 (Polycl.) § 12 προσταχθέν. (Kühner § 487, 3, and Goodwin's *Moods and Tenses* § 110. 2 = § 851, ed. 1889.)

In translating, we can best bring out the sense by reserving ἀμεληθὲν to a later point in the English sentence, and ἀλλ' ἀνθρώπου δυσχεραίνοντος ὅλως τοῖς τόποις καὶ μᾶλλον ἀστικοῦ, δὶς καὶ τρὶς ἐμβαλὸν τὸ ὕδωρ τά τε χωρί' ἐλυμήνατο καὶ μᾶλλον ὡδοποίει. διὸ δὴ ταῦθ' ὁ πατὴρ ὁρῶν, ὡς ἐγὼ τῶν εἰδότων ἀκούω, καὶ τῶν γειτόνων ἐπινεμόντων ἅμα καὶ βαδιζόντων

rendering the clause *οὔπω... ἔχοντος* as though it contained the principal verb. Thus: 'now my father was not yet in possession of the property, but a man who disliked the neighbourhood and preferred town life; accordingly neglect ensued, and the water overflowed several times, damaged the land, and was making further inroad.'—For *ὡδοποίει*, cf. *supra* § 10, *εὐοδῇ*.

[By *μᾶλλον ὡδοποίει*, the speaker wishes to show how the rain had made a way for itself almost amounting to a *χαράδρα*, though he denies the existence of any recognised *χαράδρα* by the road-side in § 16. P.]

ὁρῶν...ἐπινεμόντων] For the nominative participle combined with the genitive absolute, cf. Thuc. VIII 45 *Ἀλκιβιάδης τοῖς Πελοποννησίοις ὕποπτος ὢν καὶ ἀπ' αὐτῶν ἀφικομένης ἐπιστολῆς... ὑποχωρεῖ* (Goodwin's *Moods and Tenses* § 111 = § 876, ed. 1889).

τῶν γειτόνων—χωρίου] 'as the neighbours *also* (*ἅμα*) encroached and trespassed on the property.' *ἐπινέμειν* and *ἐπινομία* are specially used of turning cattle on to a neighbour's land for pasture. Hence the metaphorical use of the word in Aesch. Ag. 485 *πιθανὸς ἄγαν ὁ θῆλυς ὅρος ἐπινέμεται ταχύπορος.* Among other words compounded with *ἐπὶ* and used of encroachments on the debateable borderland of two countries, or on the boundaries of adjacent properties, we have *ἐπεργάζεσθαι* and *ἐπεργασία*.

In Plato's Laws (pp. 843—4) there is a long and interesting passage, in which the annoyances caused by neighbours are dwelt upon, and suggestions made for legal remedies. We transcribe those portions only which illustrate the clause before us, and indeed the speech in general. p. 843 B *βλάβαι πολλαὶ καὶ σμικραὶ γειτόνων γιγνόμεναι, διὰ τὸ θαμίζειν ἔχθρας ὄγκον μέγαν ἐντίκτουσαι, χαλεπὴν καὶ σφόδρα πικρὰν γειτονίαν ἀπεργάζονται. διὸ χρὴ πάντως εὐλαβεῖσθαι γείτονα γείτονι μηδὲν ποιεῖν διάφορον, τῶν τε ἄλλων περὶ καὶ δὴ καὶ ἐπεργασίας ξυμπάσης σφόδρα διευλαβούμενον... ὃς δ' ἂν ἐπεργάζηται τὰ τοῦ γείτονος ὑπερβαίνων τοὺς ὅρους, τὸ μὲν βλάβος ἀποτινέτω, τῆς δὲ ἀναιδείας ἅμα καὶ ἀνελευθερίας ἕνεκα ἰατρευόμενος διπλάσιον τοῦ βλάβους ἄλλο ἐκτισάτω τῷ βλαφθέντι...καὶ ἐάν τις βοσκήματα ἐπινέμῃ, τὰς βλάβας (ἀγρονόμοι) ὁρῶντες κρινόντων καὶ τιμώντων.*

See esp. Donaldson's *New Cratylus* § 174, where this class of words is discussed. He apparently understands *ἐπινέμειν* in this passage to refer to a 'common trespass'; but this is sufficiently expressed by *βαδιζόντων διὰ τοῦ χωρίου*, and it is therefore better to give *ἐπινεμόντων* that special application to the 'encroachment of cattle' which it constantly bears.

διὰ τοῦ χωρίου, τὴν αἱμασιὰν περιῳκοδόμησε ταύ-
12 *την. καὶ ὡς ταῦτ' ἀληθῆ παρέξομαι μὲν καὶ μάρτυ-* 1275
ρας ὑμῖν τοὺς εἰδότας, πολὺ δ' ὦ ἄνδρες Ἀθηναῖοι
τῶν μαρτύρων ἰσχυρότερα τεκμήρια. Καλλικλῆς
μὲν γάρ φησι τὴν χαράδραν ἀποικοδομήσαντα βλά-
πτειν μ' αὐτόν[c]*· ἐγὼ δ' ἀποδείξω χωρίον ὂν τοῦτ',*
13 *ἀλλ' οὐ χαράδραν. εἰ μὲν οὖν μὴ συνεχωρεῖθ' ἡμέ-*

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[c] *μ' αὐτὸν* Bl. *ἐμὲ αὐτὸν vulgo*, '*quod nimis ambiguum*' Bl. *ἐμὲ αὐτὸν* Z.

αἱμασιὰν] Never used in the sense of a 'hedge,' but always of a 'wall of dry stones.' In Odyss. XVIII 359 and XXIV 224—230 *αἱμασιὰς λέγων* is explained in a *scholium*, *οἰκοδομῶν ἐκ συλλεκτῶν λίθων*, and Hesychius paraphrases the word *τὸ ἐκ πολλῶν λίθων λογάδων ἄθροισμα*. Thus in Theocr. I 45, a boy watching a vineyard is described as sitting *ἐφ' αἱμασιαῖσι*, and in V 93 we have roses growing in beds beside the garden-wall, *ῥόδα τῶν ἄνδηρα παρ' αἱμασιαῖσι πεφύκει*. Cf. Plat. legg. 881 A *περιβόλους αἱμασιώδεις τινάς, τειχῶν ἐρύματα.*

In Bekker's *Anecdota Graeca* p. 356, we have the definition, *τὸ ἐκ χαλίκων ᾠκοδομημένον τειχίον*, where the next few words, *κυρίως δὲ τοῖς ἠκανθωμένοις λέγεται φραγμοῖς*, show that such walls were sometimes topped with thorns (Odyss. XIV 10 *αὐλὴν ..δείματο...ῥυτοῖσιν λάεσσιν καὶ ἐθρίγκωσεν ἀχέρδῳ*, cf. XXIV 230), just as in England rough stone walls are frequently finished off with furze and other prickly shrubs. The Greek peasants still give the name *αἱμασιὰς* to the walls built to support the artificial terraces of earth on the hillsides of the Morea (Ross, *Archaeologische Aufsaetze*, II 500).

§§ 12—15. *The plaintiff contends I have damaged his estate by obstructing 'the water-course.' In reply, I shall prove that what he calls a water-course is no such thing, but really part of our own ground, for it has fruit-trees growing in it, which were planted before my father built the enclosure, and it contains a burial-place, made before we acquired the property.*

All this is in evidence, gentlemen, as also the fact that the wall was built while the plaintiff's father was still alive, and without any protest on the part of my opponents or the rest of my neighbours.

12. *τὴν χαράδραν*] emphatic, as is shown by its prominent position and by the next sentence.

βλάπτειν μ' αὐτὸν] The order of words, (1) the infinitive, (2) the subject, (3) the object, is exactly parallel to that in Or. 54 § 31 *μὴ πατάξαι Κόνων' Ἀρίστωνα.*

χωρίον......ἀλλ' οὐ χαράδραν] 'private ground *and* no water-course.' Isocr. ad Dem. § 2 *τῶν σπουδαίων ἀλλὰ μὴ τῶν φαύλων εἶναι μιμητάς.*

13. *εἰ μὴ συνεχωρεῖτο ἴδιον εἶναι, τάχ' ἂν ἠδικοῦμεν, εἴ τι τῶν*

τερον ἴδιον εἶναι, τάχ᾽ ἂν τοῦτ᾽ ἠδικοῦμεν, εἴ τι τῶν δημοσίων ᾠκοδομοῦμεν· νυνὶ δ᾽ οὔτε τοῦτ᾽ ἀμφισβητοῦσιν, ἔστι τ᾽ ἐν τῷ χωρίῳ δένδρα πεφυτευμένα, ἄμπελοι καὶ συκαῖ. καίτοι [d]τίς ἂν ἐν χαράδρᾳ ταῦτα[d] φυτεύειν ἀξιώσειεν; οὐδείς γε. τίς δὲ πάλιν τοὺς αὑτοῦ προγόνους θάπτειν; οὐδὲ τοῦτ᾽ οἶμαι.

14 ταῦτα τοίνυν ἀμφότερ᾽ ὦ ἄνδρες δικασταὶ συμβέβηκεν· καὶ γὰρ τὰ δένδρα πεφύτευται πρότερον ἢ τὸν πατέρα περιοικοδομῆσαι τὴν αἱμασιάν, καὶ τὰ μνήματα παλαιὰ καὶ πρὶν ἡμᾶς κτήσασθαι τὸ χωρίον γεγενημέν᾽ ἐστίν. καίτοι τούτων ὑπαρχόντων τίς ἂν ἔτι λόγος ἰσχυρότερος ὦ ἄνδρες Ἀθηναῖοι γένοιτο; τὰ γὰρ ἔργα φανερῶς ἐξελέγχει. καί μοι λαβὲ πάσας νυνὶ τὰς μαρτυρίας, καὶ λέγε.

[d]–[d] *τὶς ἂν—ταῦτα* Ar (Bl. *coll.* §§ 14, 17, 32, al.). *τίς—ταῦτ᾽ ἂν* *vulgo.*

δημοσίων ᾠκοδομοῦμεν] In this conditional sentence, we have one *apodosis ἠδικοῦμεν ἂν*, corresponding to a double *protasis*. The second *protasis εἰ...ᾠκοδομοῦμεν* reiterates the first with a slight change of idea. The supposition stated at the beginning of the sentence is thus re-stated with some slight redundancy at the end, and reaches the hearer in two parts, which enter his mind separately and there unite. So in Plat. Phaedo 67 E *εἰ φοβοῖντο καὶ ἀγανακτοῖεν, οὐ πολλὴ ἂν ἀλογία εἴη,...εἰ μὴ ἄσμενοι ἐκεῖσε ἴοιεν.* The idiom may be illustrated by the effect upon the brain of the double images of external objects entering the eyes separately and subsequently uniting. Numerous varieties of construction, of which the present is a single instance, are grouped under the general heading of '*Binary Structure*' in Riddell's *Digest of Platonic idioms*, § 204.

ἡμέτερον ἴδιον] See note on § 8, *ad fin.*

πεφυτευμένα] 'planted' and not growing wild, like the *ἐρινεὸς* or *συκῆ ἀγρία.*

τίς ... θάπτειν ;] The telling question, 'who would think of burying his ancestors in a water-course?' (a question seriously put, unless perhaps we ought to take it as one of the touches of humour characteristic of this speech), is of course not meant to apply to *all* the tombs subsequently mentioned (§ 14). Some of them were there even before the land came into the speaker's possession.

14. *καὶ γὰρ...καὶ*] 'for not only ...but.' A frequent idiom, though one but little observed. P.]

τούτων ὑπαρχόντων] Cf. § 9 *init.*

ΜΑΡΤΥΡΙΑΙ.

15 Ἀκούετ' ὦ ἄνδρες Ἀθηναῖοι τῶν μαρτυριῶν. ἆρ' ὑμῖν δοκοῦσι διαρρήδην μαρτυρεῖν, καὶ χωρίον[e] εἶναι δένδρων μεστὸν καὶ μνήματ' ἔχειν τινὰ καὶ τἄλλ' ἅπερ καὶ τοῖς πλείστοις[f] χωρίοις συμβέβηκεν, καὶ πάλιν ὅτι περιῳκοδομήθη τὸ χωρίον ζῶντος μὲν ἔτι τοῦ τούτων[g] πατρός, οὐκ ἀμφισβητούντων δ' οὔτε τούτων οὔτ' ἄλλου τῶν γειτόνων οὐδενός;

16 Ἄξιον δ' ὦ ἄνδρες δικασταὶ καὶ περὶ τῶν ἄλλων ὧν εἴρηκε Καλλικλῆς ἀκοῦσαι. καὶ σκέψασθε[h] πρῶ- 1276

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[e] χωρίον Z *et* Bekker st. *cum* SFQ; *cf.* § 12. τὸ χωρίον *vulgo.*
[f] Ar (Bl.). ἄλλοις *vulgo.*
[g] Bekk. τοῦ τούτου Z *cum* FQ. τῶν τούτου S.
[h] Bekk. σκέψασθαι Z *cum* SAQ.

15. ἆρ'] We should expect ἆρ' οὐχ, which, like *nonne*, distinctly implies an affirmative answer. But ἆρα is not unfrequently used alone, to denote a simple interrogation, the context showing whether a negative or, as here, an affirmative reply is expected. Xen. Cyr. IV 6 § 4 ἆρα βέβληκα δὶς ἐφεξῆς; (L and S).

μνήματα...τινὰ] Not μνήματα παλαιὰ as before. The description is made as general as possible to show that the piece of ground in question had all the essential characteristics of private property.—τἄλλ' ἅπερ] The speaker does not specify what is included in this *et cetera*, but the depositions probably went into further detail.

§§ 16—18. *The plaintiff speaks of the stoppage of a water-course. Now, firstly, I don't suppose that in the whole of Attica there is such a thing as a water-course by the side of a public road. The water would naturally flow down the road and a water-course would be quite unnecessary. Next, no one surely would think of allowing water passing down the highway to flow into his own land; on the contrary, he would of course dam it off, if it ever made inroad.*

Now the plaintiff wants me to let the water flow into my own land, and to turn it off into the road again after it has passed his property. Why then, the owner next below my neighbour opposite will complain. In short, if I take the water from off the road, I cannot let it out again either into the road or into my neighbours' properties. And no other course is open to me; for I presume the plaintiff won't compel me to drink it up.

16. σκέψασθε] The other reading σκέψασθαι (closely connected by καὶ with ἀκοῦσαι) is perhaps less preferable.

τον μέν, εἴ τις ὑμῶν ἑόρακεν[i] ἢ ἀκήκοε πώποτε παρ' ὁδὸν χαράδραν οὖσαν. οἶμαι γὰρ ἐν πάσῃ τῇ χώρᾳ μηδεμίαν εἶναι· τοῦ γὰρ ἕνεκ' ἄν[j], ὃ διὰ τῆς δημοσίας ἔμελλε βαδιεῖσθαι φερόμενον, τούτῳ διὰ τῶν ἰδίων

[i] ἑώρακεν *codices* (Z). [j] Bl. ἕνεκα *vulgo.*

οἶμαι — ἐποίησέ τις;] The speaker, after asking whether any of his audience has ever seen or even heard of a watercourse running by the side of a public way, takes upon himself to declare that he does not believe there is anything of the kind in the whole of Attica. The startling character of this assertion, which could hardly have been untrue, is only equalled by the delightful frankness with which he assigns the reason. 'What could induce any one,' he asks, 'to make a channel through his private grounds for water, which, if let alone, would be sure to flow down along the public road?' The passage is singularly suggestive on the state of the mountain roads of Attica. The public road, so called, would in numbers of cases be little better than the path of a mountain-torrent, which might be used in dry weather for purposes of transit, but in very wet seasons would revert to the possession of the waters. In the days of Demosthenes many of the mountain roads were, we presume, not much better than those of modern Attica, as described with perfect accuracy in Edmond About's lively book on Greek brigandage, *Le Roi des Montagnes:*

"I crossed at a leap the Eleusinian Cephisus . . . One hundred paces further on, the road was lost in a wide and deep ravine, hollowed by the rains of two or three thousand winters. I supposed with some show of justice that the ravine must be the road, for I had noticed in my previous excursions that the Greeks dispense with making a road wherever the water has been kind enough to take that duty on itself. In this country, where man but slightly thwarts the laws of nature, the torrents are royal roads, the rivers turnpike-roads, the rivulets cross-country roads. Storms do the office of highway engineers, and the rain is an inspector who keeps up without any control the means of communication, great and small" (p. 45 = p. 42 *Eng. transl.* 1862).

[We must remember that road-making, as we have it, is a modern art, and that the want of roads is still the cause of backward civilisation and commerce in many countries. The hollow or sunken lanes, common in many parts of England, are caused by the excavating power of water running along tracks. The Romans *raised* their roads (*viam munire*) apparently to avoid this. As an illustrative passage, we may quote Iliad XXIII 420 ῥωχμὸς ἔην γαίης, ᾗ χειμέριον ἀλὲν ὕδωρ ἐξέρρηξεν ὁδοῖο, βάθυνε δὲ χῶρον ἅπαντα. P.]

βαδιεῖσθαι] The *Classic* future of βαδίζω (retained even by Plutarch and Lucian); the other forms, βαδίσω and βαδιῶ

17 *χωρίων χαράδραν[k] ἐποίησέ τις; ἔπειτα τίς ἂν ὑμῶν εἴτ' ἐν ἀγρῷ νὴ Δί' εἴτ' ἐν ἄστει τὸ διὰ τῆς ὁδοῦ ῥέον ὕδωρ εἰς τὸ χωρίον ἢ τὴν οἰκίαν δέξαιτ' ἂν [αὑτοῦ[l]]; ἀλλ' οὐκ αὐτὸ τοὐναντίον, κἂν βιάσηταί ποτ', ἀποφράττειν ἅπαντες καὶ παροικοδομεῖν εἰώθαμεν; οὗτος τοίνυν ἀξιοῖ μ' ἐκ τῆς ὁδοῦ τὸ ὕδωρ εἰσδεξάμενον εἰς τὸ ἐμαυτοῦ χωρίον, ὅταν τὸ τούτου παραλλάξῃ χωρίον, πάλιν εἰς τὴν ὁδὸν ἐξαγαγεῖν. οὐκοῦν πάλιν ὁ μετὰ τοῦτόν μοι γεωργῶν τῶν γειτόνων ἐγκαλεῖ[m]·*

[k] ἂν, *vocabuli antecedentis in syllaba ultima absorptum, restituendum esse indicavit* H. W. Moss; *item* H. Zurborg, *Hermes*, 1878, p. 286; *supra addidit* Bl.

[l] *propter hiatum secl.* Bl. *τὴν αὑτοῦ malebant* Z.

[m] *ἐγκαλέσει* S *in margine.*

are characteristic of the worst Greek, *extrema barbaries* (Cobet, *var. lect.* 329).

17. *αὐτὸ τοὐναντίον*] 'on the very contrary,' so also in Or. 22 (Androt.) § 6.—*ἂν τοὐναντίον* was the common text until corrected by Reiske, on the authority of two MSS and the margin of Σ; but the correction is so certain that authority is hardly wanted.

ἀποφράττειν καὶ παροικοδομεῖν] 'dam and wall it off.' The former implies an abrupt cutting off of the water by a transverse dam athwart the stream; the latter probably expresses a wall built parallel to the stream to narrow its course.

οὗτος τοίνυν—ἐγκαλεῖ] 'This man, Callicles, expects me to take the water from the road (where it has no *χαράδρα*) into my farm, and, when it has passed his, again to carry it out of my farm into the road. But, in that case, the farmer who occupies next to *him* would complain'; i.e. he would say that I ought to carry it beyond *his* farm also, lest it should come in from the road. It is clear that the defendant's farm, on one side of the road (§ 10), extended considerably beyond that of the plaintiff Callicles on the other. For he says that, if bound to carry it beyond one farm, he was bound to carry it beyond a second or a third, before he allowed it to re-enter the public road. P.]

ἐξαγαγεῖν] 'draw off,' 'let out,' *derivare*, Xen. Oec. 20 § 12 *τὸ ὕδωρ ἐξάγεται τάφροις.*

ἐγκαλεῖ] Not present, but future. The context is decisive and the margin of the Paris MS has *ἐγκαλέσει*, pointing to the same conclusion, though the note seems due to a copyist who did not recognise in *ἐγκαλεῖ* the regular Attic future. In Or. 23 (Aristocr.) § 123, we have *ἐγκαλέσουσιν*; so also in Or. 19 § 133. The *simple* verb *καλῶ* hardly ever (Cobet says, *never*) has any other future than *καλῶ* (*var. lect.* 28, 29).

τὸ γὰρ ὑπὲρ τούτου δίκαιον δῆλον ὅτι κἀκείνοις
ὑπάρξει πᾶσι λέγειν. ἀλλὰ μὴν εἴ γ' εἰς τὴν ὁδὸν 18
ὀκνήσω τὸ ὕδωρ ἐξάγειν, ἦ που σφόδρα θαρρῶν[n] εἰς
τὸ τοῦ πλησίον χωρίον ἀφιείην[o] ἄν. ὅπου γὰρ ἀτιμήτους
φεύγω δίκας[p] διότι τὸ ἐκ τῆς ὁδοῦ ῥέον ὕδωρ εἰς
τὸ τούτου χωρίον διέπεσε[q], τί πείσομαι πρὸς Διὸς
ὑπὸ τῶν ἐκ τοῦ χωρίου τοὐμοῦ τοῦ ὕδατος εἰσπεσόντος
βλαπτομένων; ὅπου δὲ μήτ' εἰς τὴν ὁδὸν μήτ'

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[n] *θαρρῶν γ'* Hirschig. [o] Bl. *ἀφείην vulgo.*
[p] Ar (Bl.). *δ. ἀτ. φεύγω vulgo.* [q] *εἰσέπεσε* Hirschig.

18. *ἦ που*] 'Surely, I should scarcely be rash enough to turn it on to my neighbour's land';—'I should be a very rash man indeed to do so.' For this slightly ironical use of *ἦ που*, 'to be sure,' cf. Lycurgus § 71 *ἦ που ταχέως ἂν ἠνέσχετό τις ἐκείνων τῶν ἀνδρῶν τοιοῦτον ἔργον.* Soph. Aj. 1008 *ἦ πού με Τελαμὼν...δέξαιτ' ἂν εὐπρόσωπος ἵλεώς τ' ἴσως χωροῦντ' ἄνευ σοῦ.*

ὅπου] 'whereas,' 'in a case where' (without any direct notion of *place*). Isocr. ad Dem. § 49.

ἀτιμήτους φεύγω δίκας] 'am sued for a fixed penalty,' 'am put on my trial in law-suits where the damages are already assessed by law.' The plural refers to the fact that the speaker has been sued by Callicrates as well as by Callicles (§ 2).

δίκη τιμητὸς means 'a suit to be assessed,' i.e. 'a suit in which the penalty or damages have *not* been determined by law.' *δίκη ἀτίμητος* means the opposite; 'a suit not to be assessed,' i.e. a suit in which the penalty has *already* been fixed by law.

So Harpocration: *ἀτίμητος ἀγὼν καὶ τιμητός. ὁ μὲν τιμητὸς ἐφ' ᾧ τίμημα ὡρισμένον ἐκ τῶν νόμων οὐ κεῖται, ἀλλὰ τοὺς δικαστὰς ἔδει τιμᾶσθαι ὅ τι χρὴ παθεῖν ἢ ἀποτῖσαι· ὁ δὲ ἀτίμητος τοὐναντίον ᾧ πρόσεστιν ἐκ τῶν νόμων ὡρισμένον τίμημα, ὡς μηδὲν δεῖν τοὺς δικαστὰς διατιμῆσαι. Αἰσχίνης κατὰ Κτησιφῶντος* (§ 210), *Δημοσθένης κατὰ Μειδίου* (§ 90). Cf. Or. 37 § 40.

Again Pollux (VIII 63) has: *ἀτίμητος δὲ δίκη, ἣν οὐκ ἔστιν ὑποτιμήσασθαι ἀλλὰ τοσούτου τετίμηται ὅσου ἐπιγέγραπται.*

The above explanation is wrongly reversed by Suidas (quoted in Telfy's *Corpus iuris Attici* 747 note), by the *Lexica Segueriana* (on p. 202 and 469 of Bekker's *Anecdota Graeca*), and even in a scholium on § 25 *infra*, *χιλίων δραχμῶν δίκην ἀτίμητον φεύγω*, a passage which is decisive in favour of Harpocration's distinction.

ὅπου δὲ μήτε] There would seem to have been a law prohibiting the draining of farms on to a public way. Hence he says *εἰ εἰς τὴν ὁδὸν ὀκνήσω τὸ ὕδωρ ἐξάγειν.* It was equally illegal, of course, to drain on to another's land. Hence he asks what he was to do with the water, if once he

εἰς τὰ χωρί' ἀφιέναι[r] μοι τὸ ὕδωρ ἐξέσται[s] δεξαμένῳ,
τί λοιπὸν ὦ ἄνδρες δικασταὶ πρὸς θεῶν; οὐ γὰρ
ἐκπιεῖν γε δήπου με Καλλικλῆς αὐτὸ προσαναγκάσει.
19 [t]ταῦτα τοίνυν ἐγὼ πάσχων ὑπὸ τούτων καὶ
πόλλ' ἕτερα καὶ δεινά, μὴ ὅτι δίκην λαβεῖν, ἀλλὰ
μὴ προσοφλεῖν ἀγαπήσαιμ' ἄν.[t] εἰ μὲν γὰρ ἦν ὦ 1277

[r] Z *et* Bekker st. *cum* FQ (ἀφειεναι S). ἀφεῖναι Ar (Dind.).

[s] ἔξεστι Z *cum* SFQ.

[t–t] '*Sententia loco quo nunc legitur prorsus inepta est*' Bl.

admitted it on his farm? And the inference is, that he was right in not admitting it, but in damming it back as far as he could, and letting it run as it might along the road. P.]

οὐ γὰρ ἐκπιεῖν—αὐτὸ προσαναγκάσει] This passage is quoted by Aristides (II 470 in Spengel's *Rhet. Graeci*), ὅταν εἰς ἄτοπον ἀπάγῃς τὸν λόγον, βαρύτητα εἴργασαι, ὡς ἐν τῷ πρὸς Καλλικλέα, οὐ γὰρ δὴ ἐκπιεῖν με αὐτὸ Καλλικλῆς ἀναγκάσει. The rhetorician recognises the force and effectiveness of the sentence, but fails to draw attention to its humour. It is also quoted by Aelian, *Ep.* 6 p. 18 Hercher, οὐ γὰρ δήπου κελεύεις ἡμᾶς ἐκπιεῖν αὐτό.

§ 19. *Now had there been a water-course below my property, to take off the drainage, I might have been doing wrong in refusing to let the water into my land; but, as it is, the water-course alleged is neither passed down to me by any neighbour immediately above me, nor is it passed down by myself to any one else below.*

19. μὴ ὅτι—ἀλλὰ μὴ...ἀγαπήσαιμ' ἄν] 'I must be content, I do not say, with obtaining a verdict, but with escaping conviction.' The sense is: 'victimised as I have been, instead of gaining legal satisfaction from my opponents, I must think myself fortunate if I am not convicted to pay them an additional penalty.'

εἰ μὲν γὰρ—παραλαμβάνουσιν ὡσαύτως] In Plato's Laws provisions are suggested to prevent damage being incurred in times of heavy rain, either owing to neglect on the part of neighbours in providing an outlet for streams that pass down to them from the higher ground immediately adjacent, or again owing to careless transmission of the streams on the part of the neighbours higher up the hill:—

ἐὰν δὲ ἐκ Διὸς ὕδατα γιγνόμενα, τὸν ἐπάνω γεωργοῦντα ἢ καὶ ὁμότοιχον οἰκοῦντα τῶν ὑποκάτω βλάπτῃ τις μὴ διδοὺς ἐκροήν, ἢ τοὐναντίον ὁ ἐπάνω μεθιεὶς εἰκῇ τὰ ῥεύματα βλάπτῃ τὸν κάτω, καὶ περὶ ταῦτα μὴ ἐθέλωσι διὰ ταῦτα κοινωνεῖν ἀλλήλοις, ἐν ἄστει μὲν ἀστυνόμον, ἐν ἀγρῷ δὲ ἀγρονόμον ἐπάγων ὁ βουλόμενος ταξάσθω τί χρὴ ποιεῖν ἑκάτερον· ὁ δὲ μὴ ἐμμένων ἐν τῇ τάξει φθόνου θ' ἅμα καὶ δυσκόλου ψυχῆς ὑπεχέτω δίκην, καὶ ὀφλὼν διπλάσιον τὸ βλάβος ἀποτινέτω τῷ βλαφθέντι, μὴ ἐθελήσας τοῖς ἄρχουσι πείθεσθαι. Leg. VIII 844 C. Among

ἄνδρες δικασταὶ χαράδρα πάλιν ὑποδεχομένη, τάχ᾽ ἂν ἠδίκουν ἐγὼ μὴ δεχόμενος, ὥσπερ ἀν᾽ ἕτερ᾽[u] ἄττα τῶν χωρίων εἰσὶν ὁμολογούμεναι χαράδραι· καὶ ταύταις[v] δέχονται μὲν οἱ πρῶτοι, καθάπερ τοὺς ἐκ τῶν οἰκιῶν χειμάρρους, παρὰ τούτων δ᾽ ἕτεροι παραλαμβάνουσιν ὡσαύτως· ταύτῃ[w] δ᾽ οὔτε παραδίδωσιν οὐδεὶς οὔτε παρ᾽ ἐμοῦ παραλαμβάνει. πῶς ἂν οὖν
εἴη τοῦτο χαράδρα; τὸ δ᾽ εἰσπεσὸν ὕδωρ ἔβλαψε 20
μὲν[x] οἶμαι πολλάκις ἤδη πολλοὺς μὴ φυλαξαμένους, ἔβλαψε δὲ καὶ νῦν[y] τοῦτον[z]. ὃ καὶ πάντων ἐστὶ δεινότατον, εἰ Καλλικλῆς μὲν εἰς τὸ χωρίον εἰσπε-

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[u] ἀν᾽ ἕτερ᾽ H. Wolf, Z, Bl. ἀν θάτερ᾽ SQFB. ἀνὰ θάτερ᾽ Bekk. '*ἀνὰ χἄτερ᾽ ἄττα lege; partim e mss*' Dobree (Dind.). '*non est locus particulae καί*' Bl.

[v] Bl. *ταύτας vulgo.*

[w] Bl. (*coll.* § 20). *ταύτην vulgo.*

[x] Bekk. *ἔβλαψεν* Z *cum* SFQ.

[y] Ar (Bl.). *νῦν καὶ vulgo.*

[z] Bl. *τουτονί vulgo.*

the conditions attaching to the lease of a *τέμενος* in 418 B.C. is the clause *τοῦ ὕδατος κρατεῖν τοῦ ἐγ* (for *ἐκ*) *Διὸς τὸν μισθωσάμενον* (*C.I.A.* IV 2, 53 *a*).

ἠδίκουν...μὴ δεχόμενος] Thus in the fens near Cambridge, an obligation lies on each tenant to clear out the ditch or dyke bounding his land on one side, and so to give free passage to the water from his neighbour's land. P.] Cf. the *ius aquae ducendae* which was one of the *servitutes* (or limiting obligations), under which property was held in Roman law.

ὁμολογούμεναι χαράδραι] 'recognised, acknowledged, undisputed water-courses.' A curious expression. The nearest approach to it that I can find is (Andoc.) Or. 4 § 17 *οὐδὲν ἧττον τῶν ὁμολογουμένων δούλων.*

τοὺς χειμάρρους] here 'water-drains,' 'gutters,' like *ὑδρορρόα* Ar. Ach. 922. The word has lost all trace of its primary meaning 'a winter torrent.'

§ 20. *The fact is, that simply owing to the plaintiff's own carelessness, he has suffered from a flood, as others have before him; and the strangest inconsistency of all is, that the plaintiff, while he himself brings to the spot large stones to dam off the water when it makes inroad, has actually brought against me a suit for damages, just because my father built a wall round his property with the very same object.*

20. *μὴ φυλαξαμένους*] 'for not being on their guard,' 'owing to their neglect.' *μὴ* here implies the *reason*, as distinguished from *οὐ* which would only denote the fact.

ὃ καὶ...δεινότατον, εἰ] Isocr.

σόντος τοῦ ὕδατος ἁμαξιαίους λίθους προσκομίσας
ἀποικοδομεῖ, τοῦ δὲ πατρός, ὅτι τοῦτο[a] παθόντος τοῦ
χωρίου περιῳκοδόμησεν, ὡς ἀδικοῦντος, ἐμοὶ βλάβης
εἴληχε δίκην. καίτοι εἰ ὅσοι κακῶς πεπόνθασιν ὑπὸ
τῶν ὑδάτων τῶν ταύτῃ ῥεόντων ἐμοὶ λήξονται δίκας,
οὐδὲ πολλαπλάσια γενόμενα τὰ ὄντ' ἐξαρκέσειεν ἂν
21 μοι. τοσοῦτον τοίνυν διαφέρουσιν οὗτοι τῶν ἄλλων,
ὥστε πεπονθότες μὲν οὐδέν, ὡς αὐτίχ' ὑμῖν ἐγὼ
σαφῶς ἐπιδείξω, πολλῶν δὲ πολλὰ καὶ μεγάλα
βεβλαμμένων, μόνοι δικάζεσθαι τετολμήκασιν οὗτοί
μοι. καίτοι πᾶσι μᾶλλον ἐνεχώρει τοῦτο πράττειν.
οὗτοι μὲν γάρ, εἰ καί τι πεπόνθασιν, αὐτοὶ δι' αὑτοὺς

Archidamus § 56 *ὃ δὲ πάντων σχετλιώτατον, εἰ φιλοπονώτατοι δοκοῦντες εἶναι...ῥᾳθυμότερον βουλευσόμεθα.* Paneg. § 128 *ὃ δὲ πάντων δεινότατον, ὅταν*...(Dem.) Aristog. (25) § 31 *ὃ καὶ θαυμαστόν ἐστιν, εἰ κ.τ.λ.* In such sentences *ὃ δὲ* implies a less close connexion with the previous context than *ὃ καί*, and *ἐστὶ* is frequently omitted (Kühner § 406, 9. Madvig *Gr. Synt.* § 197).

ἁμαξιαίους λίθους] Xen. Anab. IV 2 § 3 *ἐκυλίνδουν ὁλοιτρόχους ἁμαξιαίους* (huge boulders) and Hell. II 4 § 27, Eur. Phoen. 1157 *λᾶαν ἐμβαλὼν κάρᾳ ἁμαξοπληθῆ.*

ἐμοὶ βλάβης εἴληχε δίκην] Or. 29 § 30 *ἐγὼ τὴν δίκην ἔλαχον τούτῳ τῆς ἐπιτροπῆς.* Kühner § 419, 12.

οὐδὲ πολλαπλάσια] So in § 35 the defendant speaks of his *μικρὰ οὐσία.*

§ 21. *If all my neighbours were to treat me as the plaintiff has done, I should soon be a ruined man. But while the rest, who have had great losses, are content to bear their misfortune, my present opponents alone, who have lost nothing to speak of, are bringing against me a groundless action for damage entirely due to their own neglect.*

21. *πεπονθότες...βεβλαμμένων*] cf. § 11 *ὁρῶν...ἐπινεμόντων* n.

τετολμήκασιν] *τολμᾶν* and its tenses are regularly used in Greek prose, while *τλῆναι* is almost entirely confined to Greek verse (note on Isocr. Paneg. § 96 *ἔτλησαν*).—*τοῦτο πράττειν* = *δικάζεσθαι.*—*πᾶσι* sc. *τοῖς ἄλλοις.*

εἰ καί] *Notwithstanding — even if*—they have had some trifling losses. *εἰ καί*, without disputing the condition (here *εἰ πεπόνθασι*), represents it as of little consequence. *καὶ εἰ* or *κεἰ* '*even supposing*' introduces a condition which is utterly improbable. Kühner § 378.

αὐτοὶ — βεβλαμμένοι] 'they have incurred damage owing to

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[a] *ταὐτὸ* Zurborg, *Hermes*, 1878, p. 284, *coll. Lept.* 62, *ταὐτὰ λεγόντων.*

βεβλαμμένοι συκοφαντοῦσιν· ἐκεῖνοι δ', εἰ καὶ[b] *μηδὲν ἄλλο, τοιαύτην γ' οὐδεμίαν αἰτίαν ἔχουσιν. ἀλλ' ἵνα μὴ πάνθ' ἅμα συνταράξας λέγω, λαβέ μοι τὰς τῶν γειτόνων μαρτυρίας.*

ΜΑΡΤΥΡΙΑΙ.

Οὐκοῦν δεινὸν ὦ ἄνδρες δικασταὶ τούτους μὲν 22
1278 *μηδὲν ἐγκαλεῖν μοι τοσαῦτα βεβλαμμένους, μηδ'*

[b] *fortasse secludendum putat* Bl. *coll. Or.* 58 § 69.

their own fault alone (by not damming off the water as I did), though they vexatiously threw the blame upon me.' The participle here is quite as emphatic as a principal verb.

ἐκεῖνοι—αἰτίαν ἔχουσιν] 'whereas the rest of my neighbours, not to mention any other point, at any rate are open to no such imputation as this.' With *μηδὲν ἄλλο* I understand *διαφέρουσι*, and I refer *αἰτίαν ἔχουσι* to *αὐτοὶ δι' αὐτοὺς βεβλαμμένοι συκοφαντοῦσι*. The imputation is *συκοφαντία*, bringing a vexatious charge when they are themselves to blame for want of precaution. Cf. next § *τούτους μὲν μηδὲν ἐγκαλεῖν...τουτονὶ δὲ συκοφαντεῖν*.

['while the rest, however negligent they may have been, are at all events chargeable with nothing of this kind,' Kennedy. This seems to give the sense; but the precise ellipse with *εἰ καὶ μηδὲν ἄλλο* is obscure. P.]

G. H. Schaefer explains *τοιαύτην αἰτίαν* by the words *τοῦ αὐτοὺς* (*qu.* *αὐτοὶ*) *δι' αὐτοὺς βεβλάφθαι*, and with *εἰ καὶ μηδὲν ἄλλο* he understands *πεποιήκασι τοῦ φυλάττεσθαι τὴν ἐκ τοῦ ὕδατος ἐσομένην βλάβην*.

αἰτίαν ἔχειν (except in Pl. Phaedo 101 c, where it means 'have you, i.e. do you know, any cause?') is nearly equivalent to *δόξαν ἔχειν*, 'to have the reputation (i.e. either the credit or the imputation) of...' It occurs in the better sense, 'to have the credit of,' in Isocr. de pace § 138 *τούτων τῶν ἀγαθῶν τὴν αἰτίαν ἕξομεν*. The worse sense, 'to be open to an imputation' (as here), is far more common (e.g. Lysias Or. 22 § 18, 10 § 28, 13 § 62). Both meanings are combined in Thuc. I 83 § 3 *τῶν ἀποβαινόντων τὸ πλέον ἐπ' ἀμφότερα αἰτίας ἕξομεν* (note on Isocr. Paneg. § 109). *αἰτίαν ἔχειν* is 'the usual passive of *αἰτιᾶσθαι*' (Wayte on Timocr. § 187).

§ 22. *The plaintiff has himself done wrong by advancing his wall and thus narrowing the road, and by shooting his rubbish on to the road and thus raising its level.*

22. *δεινὸν...τούτους μὲν μηδὲν ἐγκαλεῖν ... τουτονὶ δὲ συκοφαντεῖν*] The clause containing *μὲν* is coordinate with that containing *δὲ*, but in English must be subordinate to it. 'Is it not atrocious, that, *while* my neighbours make no complaint..., the plaintiff brings a vexatious action against me?' The influence of *δεινὸν* affects the second clause in its contrast with the first. Dem. Lept. § 9 *πῶς γὰρ*

ἄλλον μηδένα τῶν ἠτυχηκότων, ἀλλὰ τὴν τύχην στέργειν, τουτονὶ δὲ συκοφαντεῖν; ὃν ὅτι μὲν αὐτὸς ἐξημάρτηκε πρῶτον μὲν τὴν ὁδὸν στενοτέραν ποιήσας, ἐξαγαγὼν ἔξω τὴν αἱμασιάν, ἵνα τὰ δένδρα τῆς ὁδοῦ ποιήσειεν εἴσω[c], ἔπειτα δὲ τὸν χλῆδον ἐκβαλὼν[d]

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[c] (1) *Lego* τὰ δένδρα τὰ τῆς ὁδοῦ ποιήσειεν εἴσω, *scil.* τῆς αἱμασιᾶς. —(2) *Imo deleta glossa lege* τὰ δένδρα ποιήσειεν εἴσω (Dobree).

[d] Bekker st. *cum* γρ. FQ *et Harpocrat. s.v.* χλῆδος, cf. § 27. ἐμβαλὼν Z *et* Bekk. 1824. ἐμβάλλων SFQ.

οὐκ αἰσχρὸν κατὰ μὲν τὴν ἀγορὰν ἀψευδεῖν νόμον γεγράφθαι...ἐν δὲ τῷ κοινῷ μὴ χρῆσθαι τῷ νόμῳ τούτῳ (Isocr. ad Dem. § 11 n. Madvig *Gr. Synt.* § 189 a, Cicero II Phil. § 110 l. 6 ed. Mayor, n.).

τὴν τύχην στέργειν] στέργειν, in the sense of contented submission, usually has the dative with or without ἐπί, e.g. Isocr. de pace § 6 στέργειν τοῖς παροῦσι. The acc. however occurs again in § 30 *infra*, also in Hdt. IX 117 ἔστερξαν τὰ παρεόντα, Eur. Phoen. 1685 τἄμ' ἐγὼ στέρξω κακά, Soph. Ant. 292, and Isocr. ad Dem. § 29 στέργε μὲν τὰ παρόντα ζήτει δὲ τὰ βέλτιστα.

ὃν] ὃν εἴσεσθε σαφέστερον...ὅτι αὐτὸς ἐξημάρτηκε. The subject of the subordinate here becomes the accusative of the principal sentence, and all the words down to συμβέβηκεν inclusive form an object-sentence to the principal verb εἴσεσθε. Lysias, Or. 20 § 34 οὓς οὔπω ἴστε εἴτε ἀγαθοὶ εἴτε κακοὶ...γενήσονται (Madvig, *Gr. Synt.* § 191. Kühner § 600 p. 1083).

στενοτέραν] The old Greek grammarians (e.g. Choeroboscus) state that στενὸς (*Ionic* στεινὸς) and κενὸς have ο, not ω, in the comparative and superlative (cf. *Ionic* στεινότερος). But the forms in ω have better authority than those grammarians supposed (Kühner I § 154 note 2).

ἐξαγαγὼν...] 'by advancing—carrying-out—his wall beyond the boundary.' Thuc. I 93 μείζων ὁ περίβολος πανταχῇ ἐξήχθη τῆς πόλεως. § 27 *infra* αἱμασιὰν προαγαγόντες κ.τ.λ.

ἵνα—εἴσω] Not 'to get his trees within the road' (Kennedy), but 'to take in, enclose, the trees of the road.' A thrust at the πλεονεξία of the plaintiff.

χλῆδον] 'rubbish'; the word is only found in § 27 and in a fragment of Aeschylus quoted below. Harpocration s.v. χλῆδος· Δημοσθένης ἐν τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβης· ἔπειτα δὲ τὸν χλῆδον ἐκβαλὼν ἐξ ὧν ὑψηλοτέραν καὶ στενωτέραν τὴν αὐτὴν ὁδὸν πεποιῆσθαι συμβέβηκεν. πᾶν πλῆθος χλῆδος λέγεται καὶ ἐστὶν οἷον σωρός τις, μάλιστα δὲ τῶν ἀποκαθαρμάτων τε καὶ ἀποψημάτων, καὶ ἡ τῶν ποταμῶν πρόσχωσις, καὶ πολὺ μᾶλλον τῶν χειμάρρων ὃ καὶ χέραδος καλεῖται (Iliad XXI 319). νῦν δὲ ἔοικεν ὁ ῥήτωρ λέγειν ὅτι χοῦν καὶ φρυγανώδη τινὰ ἐκ τοῦ χωρίου σωρὸν ὁ Καλλικλῆς εἰς τὴν ὁδὸν ἐμβέβληκεν, ὡς καὶ αὐτὸς ἑξῆς ὑποσημαίνει. κέχρηνται δὲ τῷ ὀνόματι πολλοί. Αἰσχύλος 'Αργεί-

εἰς τὴν ὁδόν, ἐξ ὧν ὑψηλοτέραν τὴν αὐτὴν[e] καὶ στε-
νοτέραν πεποιῆσθαι συμβέβηκεν, ἐκ τῶν μαρτυριῶν
αὐτίκ' εἴσεσθε σαφέστερον, ὅτι δ' οὐδὲν ἀπολωλεκὼς 23
οὐδὲ καταβεβλαμμένος ἄξιον λόγου τηλικαύτην μοι
δίκην εἴληχε, τοῦθ' ὑμᾶς ἤδη πειράσομαι διδάσκειν.
τῆς γὰρ μητρὸς τῆς ἐμῆς χρωμένης τῇ τούτων μητρὶ
πρὶν τούτους ἐπιχειρῆσαί με συκοφαντεῖν, καὶ πρὸς
ἀλλήλας ἀφικνουμένων, οἷον εἰκὸς ἅμα μὲν ἀμφοτέ-
ρων οἰκουσῶν ἐν ἀγρῷ καὶ γειτνιωσῶν, ἅμα δὲ τῶν
ἀνδρῶν χρωμένων ἀλλήλοις ἕως ἔζων, ἐλθούσης δὲ 24
τῆς ἐμῆς μητρὸς ὡς τὴν τούτων καὶ ἀποδυρομένης[f]
ἐκείνης τὰ συμβάντα καὶ δεικνυούσης, οὕτως ἐπυθό-
μεθα πάνθ' ἡμεῖς ὦ ἄνδρες δικασταί· καὶ λέγω μὲν
ἅπερ ἤκουσα τῆς μητρός, οὕτω μοι[g] πολλὰ κἀγαθὰ[h]

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[e] *αὐτὴν coll. Or.* 57 § 25 Bl. *ex Harpocr.* ὑψ. καὶ στενωτέραν τὴν αὐτὴν ὁδὸν πεπ. ὁδὸν *vulgo.*

[f] Ar (Bl.). ἀποδυραμένης *vulgo.*

[g] Bekk. οὕτως ἐμοὶ Z *cum* SFQ.

[h] Bl. *coll.* 54 § 41. πολλὰ ἀγαθὰ *vulgo.*

οις "καὶ παλτὰ κἀγκυλητὰ καὶ χλῆδον βαλών" (fr. 16). Bekker's *Anecd. Gr.* 315 ὁ κλῆρος τῶν ἀποκαθαρμάτων, ὁ ἔχων ἰλύν τινα καὶ βοτανώδη καὶ φρυγανώδη. Hesychius χλῆδος· ὁ σωρὸς τῶν λίθων. [The article shows that χλῆδον does not here mean rubbish generally, but the soil or gravel thrown up from altering the fences. P.]

ἐξ ὧν] The pl. refers to ἐξαγαγὼν ... αἱμασιὰν and χλῆδον ἐκβαλών. The first adjective ὑψηλοτέραν is explained by the latter, the second στενοτέραν by the former:—one of the many forms of χιασμὸς or 'introverted parallelism.' This enables the speaker to put his main point in the most emphatic positions (first and last) and the subordinate point between them (note on Isocr. ad Dem. § 7, Paneg. § 54).—αὐτίκα, sc. at the end of § 27.—τηλικαύτην δίκην. Cf. § 25 χιλίων δραχμῶν δίκην.

§§ 23—25. *The actual loss sustained was very trifling, as I know on good authority; and as for the old wall which he makes out he was compelled to repair, that must not be put to my account, as the wall neither fell down nor incurred any damage.*

23. χρωμένης...μητρὶ] 'intimate with.' Dem. Or. 29 § 15 Ἀφόβῳ χρώμενον, Or. 33 (Apatur.) § 7, Or. 35 (Lacrit.) § 6 ἐπιτήδειοί μοί εἰσι καὶ χρώμεθ' ἀλλήλοις.—τῶν ἀνδρῶν, 'their husbands.'

24. ἐκείνης] sc. τῆς τούτων μητρός.

γένοιτο, εἰ δὲ ψεύδομαι, τἀναντία τούτων· ἦ μὴν
ὁρᾶν καὶ τῆς τούτων μητρὸς ἀκούειν ἔφη, κριθῶν μὲν
βρεχθῆναι, καὶ ξηραινομένους ἰδεῖν αὐτὴν[i], μηδὲ τρεῖς
μεδίμνους, ἀλεύρων δ' ὡς ἡμιμέδιμνον· ἐλαίου δ'
ἀποκλιθῆναι μὲν κεράμιον φάσκειν, οὐ μέντοι παθεῖν
25 γ'[j] οὐδέν. τοσαῦτ' ὦ ἄνδρες δικασταὶ τὰ συμβάντ'
ἦν τούτοις, ἀνθ' ὧν ἐγὼ χιλίων δραχμῶν δίκην ἀτί-
μητον φεύγω. οὐ γὰρ δὴ τειχίον γ' εἰ[k] παλαιὸν
ἐπῳκοδόμησεν, ἐμοὶ καὶ τοῦτο λογιστέον ἐστίν, ὃ μήτ'
ἔπεσε μήτ' ἄλλο δεινὸν μηδὲν ἔπαθεν. ὥστ' εἰ συνε- 1279
χώρουν αὐτοῖς ἁπάντων αἴτιος εἶναι τῶν συμβεβηκό-
26 των, τά γε βρεχθέντα ταῦτ' ἦν. ὁπότε[l] δὲ μήτ' ἐξ

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[i] Bekk. *αὐτὴν* Z *cum G. H. Schaefer.* *αὐτὴ malebat* Bl. '*quamvis illud sit etiam apud Aristid.* p. 452 w.'

[j] Bekk. *μέντοι γε* Z *cum* S.

[k] Bekk. *et corr.* S. *εἰ τειχίον* S (*εἰ in margine manu eadem addito*). *τειχίον γε* r. *τειχίον εἰ* FB.

[l] *ὅπου* Hirschig *coll.* § 18; '*sed v.* 41 § 25' Bl.

οὕτω—γένοιτο] Or. 54 § 41. Ter. Eun. IV 1, 1 *ita me dii bene ament*. Prop. I 7, 3 *ita sim felix*. Cic. ad Att. V 15 *ita vivam*.

τἀναντία] a kind of euphemism for *πολλὰ κακά*. So also Soph. Phil. 503 *μαθεῖν μὲν εὖ παθεῖν δὲ θἄτερα*.

κριθῶν—παθεῖν γ' οὐδέν] Quoted by Aristides (II 544 Spengel *Rhet. Gr.*) *ἐνίοτε δὲ ἡ μὲν ἔννοια ἀφελής ἐστιν, ἡ δὲ ἀπαγγελία πολιτική, ὡς καὶ ἐν τῷ πρὸς Καλλικλέα ὁ Δημοσθένης, κριθῶν μὲν—παθεῖν γε οὐδέν. καὶ τοῦτο δὲ μετὰ σεμνότητος, ὅπου γε αὐτὸ τὸ κύριον λεχθὲν κινδυνεύει εὐτέλειαν ποιῆσαι, ὥσπερ εἰ ἔλεγες, οὐ μέντοι ἐκχυθῆναί γε, ἐνταῦθα ὁ δὲ ἀντὶ τοῦ κυρίου καὶ τοῦ κατ' εἶδος, ἐν γένει μεταβαλὼν εἶπεν, οὐ μέντοι παθεῖν γε οὐδέν.*

πάσχειν is seldom applied to an inanimate subject; cf. Or. 56 § 23 *τοῦτο συνέβη παθεῖν τῇ νηί.*

κριθῶν—μεδίμνους] 'not even three *medimni* (or four and a half bushels) of barley.' The *μέδιμνος* = six *ἑκτεῖς* = six *modii* = about 12 gallons, or a bushel and a half.—*κεράμιον* used like the Roman *amphora* as a liquid measure = about six gallons or two-thirds of the Greek *ἀμφορεύς* (*μετρητής*).

25. *χιλίων δραχμῶν δίκην ἀτίμητον*] See note on § 18.

ἐπῳκοδόμησεν] (cf. *ἐπισκευάζειν*) refers to repairing the old wall.

ὃ μήτ' ἔπεσε] 'if the wall neither fell nor incurred any damage whatsoever.' *ὃ μήτε*... would in Latin be represented by *quod nec cecidisset nec*....

§§ 26, 27. *Summary of pre-*

ἀρχῆς ὁ πατὴρ ἠδίκει τὸ χωρίον περιοικοδομῶν, μήθ'
οὗτοι πώποτ' ἐνεκάλεσαν τοσούτου χρόνου διελθόντος,
οἵ τ' ἄλλοι πολλὰ καὶ δεινὰ πεπονθότες μηδὲν
μᾶλλον ἐγκαλοῦσιν ἐμοί, πάντες θ' ὑμεῖς τὸ ἐκ τῶν
οἰκιῶν καὶ τὸ ἐκ τῶν χωρίων ὕδωρ εἰς τὴν ὁδὸν ἐξάγειν
εἰώθατε, ἀλλ' οὐ μὰ Δί' εἴσω τὸ ἐκ τῆς ὁδοῦ δέχεσθαι,
τί δεῖ πλείω λέγειν; οὐδὲ γὰρ ἐκ τούτων ἄδηλον ὅτι
φανερῶς συκοφαντοῦμαι, οὔτ' ἀδικῶν οὐδὲν οὔτε βεβλαμμένων
ἅ φασιν. ἵνα δ' εἰδῆθ' ὅτι καὶ τὸν χλῆδον 27
εἰς τὴν ὁδὸν ἐκβεβλήκασι[m], καὶ τὴν αἱμασιὰν προαγαγόντες
στενοτέραν τὴν ὁδὸν πεποιήκασιν, ἔτι δ' ὡς
ὅρκον ἐδίδουν ἐγὼ τῇ τούτων μητρί, καὶ τὴν ἐμαυτοῦ
τὸν αὐτὸν ὀμόσαι προὐκαλούμην, λαβέ μοι τάς τε
μαρτυρίας καὶ τὴν πρόκλησιν.

ΜΑΡΤΥΡΙΑΙ. ΠΡΟΚΛΗΣΙΣ.

Εἶτα τούτων ἀναισχυντότεροι γένοιντ' ἂν ἄνθρωποι[n], 28
ἦ περιφανέστερον συκοφαντοῦντες, οἵτινες αὐτοὶ

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[m] Z *et* Bekk. st. ἐκβεβλήκασιν FΣΦ. ἐμβεβλήκασι Bekk. 1824.

[n] *propter hiatum suspicatur* Bl.

vious arguments, and calling of witnesses.

26. *οἵ τ' ἄλλοι—ἐμοί*] Cf. § 21 *πολλῶν πολλὰ...βεβλαμμένων—πάντες—εἰώθατε*. See § 17 *init.*

οὔτε βεβλαμμένων ἅ φασι] *βεβλαμμένων*, not neuter, but masc. 'they have not incurred the damage they allege.' § 21 *πολλῶν πολλὰ καὶ μεγάλα βεβλαμμένων*.

27. *χλῆδον*] See note on § 22.

ὅρκον ἐδίδουν] 'offered an oath' in the sense of 'proposed to administer an oath.' On *ὅρκον διδόναι καὶ λαμβάνειν*, see esp. Arist. Rhet. I 15 §§ 27—33.

§§ 28—30. *My opponents, after having themselves advanced their wall and raised the road's level, are most shamelessly suing the very victims of their own wrong, for a penalty of a thousand drachmae, while their own loss is less than fifty.*

If the plaintiff may enclose his *land, we may enclose* ours. *If my father wronged you, by enclosing, you are just as much wronging me, for if you dam off the water, it will be swept back on my property and will throw down my wall. But I am not going to complain; I shall simply do my best to protect my land. The plaintiff shows his prudence in protecting his own property; but in prosecuting me, he only shows his villany and his infatuation.*

τὴν αἱμασιὰν προαγαγόντες καὶ τὴν ὁδὸν ἀνακεχωκότες ἑτέροις βλάβης δικάζονται, καὶ ταῦτα[o] *χιλίων δραχμῶν ἀτίμητον, οἵ γ' οὐδὲ πεντήκοντα δραχμῶν τὸ παράπαν ἅπαντ' ἀπολωλέκασι; καίτοι σκοπεῖτ' ὦ ἄνδρες δικασταί, πόσους ὑπὸ τῶν ὑδάτων ἐν τοῖς ἀγροῖς βεβλάφθαι συμβέβηκε, τὰ μὲν* Ἐλευσῖνι, *τὰ δ' ἐν τοῖς ἄλλοις τόποις. ἀλλ' οὐ δήπου τούτων, ὦ γῆ καὶ θεοί, παρὰ τῶν γειτόνων ἕκαστος ἀξιώσει* 29 *τὰς βλάβας κομίζεσθαι. καὶ ἐγὼ μέν, ὃν προσῆκεν ἀγανακτεῖν τῆς ὁδοῦ στενοτέρας γεγενημένης καὶ μετεωροτέρας*[p], *ἡσυχίαν ἔχω· τούτοις δὲ τοσοῦτον περίεστιν, ὡς ἔοικεν, ὥστε τοὺς ἠδικημένους πρὸς συκοφαντοῦσιν*[q]. *καίτοι ὦ* Καλλίκλεις *εἰ καὶ ὑμῖν* 1280 *περιοικοδομεῖν ἔξεστι τὸ ὑμέτερον αὐτῶν χωρίον, καὶ*

[o] *ταύτην* F, '*quod satis placet*' Bl. *coll.* 19 § 120.

[p] *καὶ μετεωροτέρας om.* S, *ante γεγενημένης posuit* Dind.

[q] *προσσυκοφαντοῦσιν* Z.

28. *ἀνακεχωκότες*] Cf. § 22 *ὑψηλοτέραν τὴν ὁδὸν...πεποιῆσθαι συμβέβηκεν.*

Ἐλευσῖνι] Commonly without *ἐν*. So also Μαραθῶνι and other locatives of Attic demes. Cobet *var. lect.* p. 69, 201 and *nov. lect.* p. 95, 96.

'Eleusis was subject to...occasional encroachments from the river Cephissus, which—although for the greater part of the year quite dry, or finding its way to the sea in three or four slender rills, almost lost in a gravelly bed—sometimes descends from the mountains with such impetuosity as to spread itself over a wide extent of the plain, damaging the lands and buildings.' Leake's *Demi* of Attica, p. 154.

τὰς βλάβας κομίζεσθαι] 'to recover the damages.'—*μετεωροτέρας = ὑψηλοτέρας*, cf. § 22.

29. *περίεστιν*] More commonly with a genitive: but cf. Mid. § 17 *οὐδ' ἐνταῦθ' ἔστη τῆς ὕβρεως, ἀλλὰ τοσοῦτον αὐτῷ περιῆν ὥστε τὸν...ἄρχοντα διέφθειρε.*

[*τοσοῦτον*, i.e. *ἀναισχυντίας* (or *συκοφαντίας*), to be supplied from *ἀναισχυντότεροι* (*ἢ περιφανέστερον συκοφαντοῦντες*) above, in § 28.—*περίεστιν*, i.e. *ἐκ περιουσίας ἔχουσιν*. P.] L and S less well explain it; 'So far are matters come with them that....'

πρὸς συκοφαντοῦσιν] Cf. Androt. § 75 *τοσοῦτ' ἀπέχει του τιμῆς τινὸς...τυχεῖν ὥστ' ἀπειρόκαλος πρὸς ἔδοξεν εἶναι.* See note on Or. 37 § 49 *πρὸς ἀτιμῶσαι*, and 39 § 23 *πρὸς μισεῖν.*

καὶ ὑμῖν ... καὶ ἡμῖν] This idiomatic repetition of *καὶ* cannot be literally rendered in English.

ἡμῖν δήπου τὸ ἡμέτερον ἐξῆν. εἰ δ' ὁ πατὴρ ὁ ἐμὸς
ἠδίκει περιοικοδομῶν ὑμᾶς, καὶ νῦν ὑμεῖς μ' ἀδικεῖτε
περιοικοδομοῦντες οὕτως· δῆλον γὰρ ὅτι μεγάλοις 30
λίθοις ἀποικοδομηθέντος πάλιν τὸ ὕδωρ εἰς τὸ ἐμὸν
ἥξει χωρίον, εἶθ' ὅταν τύχῃ καταβαλεῖ τὴν αἱμασιὰν
ἀπροσδοκήτως. ἀλλ' οὐδὲν μᾶλλον ἐγκαλῶ τούτοις
ἐγὼ διὰ τοῦτο, ἀλλὰ στέρξω[r] τὴν τύχην καὶ τἀμαυτοῦ
φυλάττειν πειράσομαι. καὶ γὰρ τοῦτον φράττοντα
μὲν τὰ ἑαυτοῦ σωφρονεῖν ἡγοῦμαι, δικαζόμενον
δέ μοι πονηρότατόν τ' εἶναι καὶ διεφθαρμένον
ὑπὸ νόσου νομίζω.

Μὴ θαυμάζετε δ' ὦ ἄνδρες δικασταὶ τὴν τούτου 31
προθυμίαν, μηδ' εἰ τὰ ψευδῆ κατηγορεῖν[s] νῦν τετόλμηκεν.
καὶ γὰρ καὶ πρότερον[t] πείσας τὸν ἀνεψιὸν
ἀμφισβητεῖν μοι τοῦ χωρίου, συνθήκας οὐ γενομένας

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[r] Bl. *στέργω vulgo.*

[s] *κατηγορεῖν* Z *et* Bekker st. *μαρτυρεῖν* SFQ.

[t] *γρ* Q (Bl. *coll.* § 34 *ὅτι καὶ πρότερον*, *Or.* 52 § 11 *καὶ γὰρ ἂν καὶ μαινοίμην*). *τὸν πρότ.* S, *τὸ πρότ.* *vulgo*, Dind.

περιοικοδομῶν ...... -δομοῦντες] *Posses παροικοδ. bis: sed cave facias. construe ἠδίκει ὑμᾶς περιοικοδομῶν 'by* hedging in' *etc.* Dobree.

30. *ἀποικοδομηθέντος*] Genitive neuter absolute. We cannot understand either *τοῦ ὕδατος* or *τοῦ χωρίου*. *Malim ἀποικοδομηθέν*, says Dobree.—*στέρξω*, see § 22.

διεφθαρμένον ὑπὸ νόσου] 'Blindly infatuated,' 'having his judgment (or reason) impaired by some malady,' contrasted with *σωφρονεῖν* in the previous clause.

§§ 31, 32. *The plaintiff's assurance in bringing false charges against me is only of a piece with his producing a forged document on a former occasion, when he prompted his cousin to claim my land. Apart from this, simply to spite me* (§ 34), *he has brought the same charge against my servant, Callarus, as against myself, though the servant could not have enclosed the land on his own responsibility.*

Their interested motive is proved by the fact that, if I let them have my property, by purchase or exchange, then Callarus is at once held to be doing them no wrong; if I refuse, they make themselves out to be grievously wronged by him, and try to get an award or a compromise which will secure them my estate.

31. *μὴ θαυμάζετε...εἰ*] Goodwin's *Moods and Tenses*, § 56.

συνθήκας οὐ γενομένας ἀπήνεγ-

ἀπήνεγκε, καὶ νῦν αὐτὸς ἐρήμην[u] καταδεδιῄτηται
τοιαύτην ἑτέραν δίκην, Κάλλαρον ἐπιγραψάμενος
τῶν ἐμῶν δούλων. πρὸς γὰρ τοῖς ἄλλοις κακοῖς καὶ
τοῦθ' εὕρηνται[v] σόφισμα. Καλλάρῳ τὴν αὐτὴν δίκην
32 δικάζονται. καίτοι τίς ἂν οἰκέτης τὸ τοῦ δεσπότου
χωρίον περιοικοδομήσειε μὴ προστάξαντος τοῦ δε-
σπότου; Καλλάρῳ δ' ἕτερον ἐγκαλεῖν οὐδὲν ἔχοντες,
ὑπὲρ ὧν ὁ πατὴρ πλέον ἢ πεντεκαίδεκ' ἔτη φράξας
ἐπεβίω δικάζονται. κἂν μὲν ἐγὼ τῶν χωρίων ἀποστῶ
τούτοις ἀποδόμενος ἢ πρὸς ἕτερα χωρία ἀλλαξά-
μενος, οὐδὲν ἀδικεῖ Κάλλαρος· ἂν δ' ἐγὼ μὴ βούλω- 1281
μαι τἀμαυτοῦ τούτοις προέσθαι, πάντα τὰ δεινόταθ'
ὑπὸ Καλλάρου πάσχουσιν οὗτοι, καὶ ζητοῦσι καὶ
διαιτητὴν ὅστις αὐτοῖς τὰ χωρία προσκαταγνώσεται,
33 καὶ διαλύσεις τοιαύτας ἐξ ὧν τὰ χωρί' ἕξουσιν. εἰ
μὲν οὖν ὦ ἄνδρες δικασταὶ τοὺς ἐπιβουλεύοντας καὶ
συκοφαντοῦντας δεῖ πλέον ἔχειν, οὐδὲν ἂν ὄφελος
εἴη τῶν εἰρημένων· εἰ δ' ὑμεῖς τοὺς μὲν τοιούτους
μισεῖτε, τὰ δὲ δίκαια ψηφίζεσθε, μήτ' ἀπολωλεκότος
Καλλικλέους μηδὲν μήτ' ἠδικημένου μήθ' ὑπὸ Καλ-

[u] +μου *vulgo*; *om.* Ar (Bl. *coll.* § 34).

[v] +τὸ Sauppe.

κε] 'put in (or, 'made a return of') false documents, forged contracts that had never been really made.' This is the σκευωρία alluded to in § 2.

ἐρήμην ... καταδεδιῄτηται] See § 2.

ἐπιγραψάμενος] Having entered on the indictment the name of Callarus, one of my slaves; [for the same action could not be brought twice in the same name. P.]

For another use of ἐπιγράφεσθαι, cf. Or. 54 § 31.

32. ὑπὲρ ὧν κ.τ.λ.]=δικάζονται ὑπὲρ τούτων ἃ ἔφραξεν ὁ πατὴρ καὶ πλέον ἢ πεντεκαίδεκα ἔτη ἐπεβίω. See esp. notes on Or. 45 § 27 ὧν διεφθάρκει and § 68 ἃ πέπλασται.

διαιτητὴν ὅστις...προσκαταγνώσεται] an arbitrator who shall actually (go so far as to) adjudge their property to them; give a verdict of condemnation adjudging the property to them.

διαλύσεις] 'compromises,' 'settlements.'

λάρου μήθ' ὑπὸ τοῦ πατρός, οὐκ οἶδ' ὅ τι δεῖ πλείω
λέγειν. ἵνα δ' εἰδῆθ' ὅτι καὶ πρότερον ἐπιβουλεύων 34
μου τοῖς χωρίοις τὸν ἀνεψιὸν κατεσκεύασε, καὶ νῦν
ἑτέραν[w] αὐτὸς κατεδιῃτήσατο Καλλάρου τοιαύτην[x]
δίκην, ἐπηρεάζων ἐμοὶ διότι τὸν ἄνθρωπον περὶ
πολλοῦ ποιοῦμαι[y], καὶ Καλλάρῳ πάλιν εἴληχεν ἑτέραν, ἁπάντων ὑμῖν ἀναγνώσεται τὰς μαρτυρίας.

ΜΑΡΤΥΡΙΑΙ.

Μὴ οὖν πρὸς Διὸς καὶ θεῶν ὦ ἄνδρες δικασταὶ 35
προῆσθέ με τούτοις μηδὲν ἀδικοῦντα. οὐ γὰρ τῆς
ζημίας τοσοῦτόν τί μοι μέλει, χαλεπὸν ὂν πᾶσι τοῖς
μικρὰν οὐσίαν ἔχουσιν· ἀλλ' ἐκβάλλουσιν ὅλως ἐκ
τοῦ δήμου μ' ἐλαύνοντες καὶ συκοφαντοῦντες. ὅτι
δ' οὐκ ἀδικοῦμεν οὐδέν, ἕτοιμοι μὲν ἦμεν ἐπιτρέπειν
τοῖς εἰδόσιν, τοῖς[z] ἴσοις καὶ κοινοῖς, ἕτοιμοι δ' ὀμνύναι

§§ 33, 34. *Now if conspiracy and paltry persecution are to win the day, my words are merely wasted. But if you detest such conduct and intend to give a just verdict on the ground that neither my father nor my servant has done any damage or wrong to the plaintiff, then I have already said enough.*

§ 35. *Lastly, I entreat the jury not to sacrifice me to my opponents, when I have done them no wrong. It is not so much the penalty that I care for, hard though that is for a poor man to pay; but they want to turn me out of the parish by their petty persecution. To prove we were in the right, we were ready to submit to a fair arbitration, and to swear the customary oath; for we felt that that would be the strongest argument with you, gentlemen, who are yourselves upon your solemn oath.*

35. χαλεπὸν ὂν] sc. τὸ ζημιοῦσθαι. Hard though it falls on those whose property is but small.

ἐλαύνοντες καὶ συκοφαντοῦντες] by their persecution and petty litigation.

ἕτοιμοι μὲν...ἕτοιμοι δὲ] § 20 ἔβλαψε μὲν...ἔβλαψε δέ.

τοῖς εἰδόσιν, τοῖς ἴσοις καὶ κοινοῖς] 'impartial, fair and unbiassed persons, acquainted with the facts.' § 9 τοῖς εἰδόσι...τοῖς ἴσοις.

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[w] Bl. *τὴν ἑτέραν vulgo.*

[x] Bl. *coll.* § 31. *ταύτην τὴν vulgo.*

[y] *verba quaedam de Callicratis lite* (§ 2) *excidisse putat* Bl., *idem καὶ Καλλάρῳ—ἑτέραν ad Callicratem refert.*

[z] *addidit* Bl. *coll.* § 9, *Or.* 41 § 14.

τὸν νόμιμον ὅρκον· ταῦτα γὰρ ᾠόμεθ' ἰσχυρότατα παρασχέσθαι[a] *τοῖς αὐτοῖς ὑμῖν ὀμωμοκόσιν. καί μοι λαβὲ τήν τε πρόκλησιν καὶ τὰς ὑπολοίπους ἔτι μαρτυρίας.*

ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

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[a] *Malim παρέξεσθαι, vel, quandoquidem παρασχέσθαι dat* MS, *possis ἰσχυρότατ' ἂν παρασχέσθαι.* Dobree.

τὸν νόμιμον ὅρκον] The defendant appears to have offered to take an oath in the *ἀντωμοσία* at the *ἀνάκρισις*, or preliminary examination. Such an oath might be taken by either of the parties, with a view to decide the cause, or some particular point in dispute. But it was only taken by the consent of the adversary, upon a challenge given and accepted (C. R. Kennedy in *Dict. Antiq.*). Cf. Or. 54 § 40 *ἠθέλησα ὀμόσαι ταυτί.* Aristot. Rhet. i 15 §§ 27—33.

τοῖς αὐτοῖς ὑμῖν ὀμωμοκόσι] 'to you who are yourselves on oath'; '*vobis iudicibus qui et ipsi iurastis.*' Seager, *Classical Journal*, 1825, no. 61, p. 63.

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